

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015,
M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO.
274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015 & M.A. NO. 317 OF
2015)
AND
Original Application No. 95 of 2014**

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER**

Original Application No.21 of 2014

Present:

Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Srivastava and Mr. Salik Shafique, Advs.
Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate for MoEF
Respondent No. 2 :	Ms. Alpana Poddar, Adv.
Respondent No. 3:	Ms. Puja Kalra, Adv.
Respondent No. 4 :	Mr. Rajiv Bansal with Mr. Kush Sharma and Ms. Arpita, Advs. for DDA.
Respondent No. 5,6 & 7:	Mr. Ardhendumauli Kumar Prasad, Adv. Mr. D. Rajeshwar Rao, Adv. for Delhi Police (Traffic) Ms. Neha Kurian, Ms. Pallavi Talware, Mr. Aditya N. Prasad, Mr. Amit Verma, Mr. Atif and Mr. Sahil Sangar- Local Commissioners Ms. Savitir Pandey, Adv. for State of UP Mr. Narender Pal Singh, Adv. for R-2 & 4 Mr. I.K. Kapka, Ms. Shikha Rai, Mr. A.K. Singh, Mr. S.K. Pabbi, Advs. For Karol Bagh Trader Federation Mr. Balendu Shekhar, Adv. for EDMC Mr. Sanjay Kumar, EE (P) Shri Ruchir Batra, Adv. for Lajpat Nagar Traders Association Mr. Chirag M. Shroff, Adv. for NCT, Delhi Ms. Sakshi Popli, Adv. for NDMC Mr. Ravinder Kumar, Adv. for NOIDA and Gr. NOIDA Authority Mr. Pinaki Mishra, Sr. Adv., Mr. Rahul Mehra, Ms. Zubdabegum for GNCTD Mr. Avnish Ahlawat, Adv. for DUCIB, DTC, Transport Dept. & GNCT Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. for State of Haryana Mr. Janjeev Ailawali and Ms. Priya Dup, Adv. Mr. Ajwal Khan, Adv. for Mr. Beopul Mandal, Mr. Deepak Khada Ria, Adv. Mr. B.S. Jaiswal, IPS, Dept. Traffic, Southern Range Mr. Surya Kant Patil, ACP of Traffic, Southern Range Insp. Shailendra S. Chauhan, TI/HKG

Insp. K.C. Sharma, , TI/DFC
 Insp Vijay Paal Tomar, TI/KKC
 Mr. Ravindra Kumar, ACP/Traffic, Northern Range
 Insp. Kailash Bisht, TI/Legal Cell
 Insp. Shrender Kumar, TI/KBC
 Insp. Dalbir Singh, TI/LNC

Original Application No. 95 of 2014

Present: **Applicant:** **Mr. Sanjay Kulshretha (Petitioner in Person), with Mr. Ashish S. Kulshreshtha, Advs.**
 Respondent No. 1: **Mr. Vikas Malhotra and Mr. M.P. Sahay, MoEF & CC**
 Respondent No. 2 to 6: **Mr. Ardhendumauli Kumar Prasad, Adv.**
 Respondent No. 7 : **Ms. Savitri Pandey, Adv. for State of U.P.**
 Mr. Mukesh Kumar, Adv. for NHAI
 Mr. N. Yogesh Kanna and Mr. A. Santha Kumar, Adv. for state of Tamil Nadu.
 Mr. Chirag M. Shroff, Adv. for NCT Delhi.

	Date and Remarks	Orders of the Tribunal
	<p>Item No. 01 & 02 April 10, 2015</p>	<p>The Learned Counsel appearing for the state NCT, Delhi has submitted that the Government of NCT, Delhi has taken a policy decision to implement all the directions of the Tribunal to ensure that people of Delhi get cleaner air to live and lead better life environmentally. The Learned Counsel appearing for the Union of India also states that the Government is committed for better environment.</p> <p>For the statements made above, and in any case, which have been widely reported, that there is definite concern and initiative being taken by the Central as well as State Government to clean the air of Delhi and to provide better ambient air quality for a healthy and decent environment to the residents of Delhi, we record our appreciation for this concern and initiative being taken by the respective Governments. We also express a pious hope that in the interest of public health and environment, the directions now being issued by the Tribunal would be implemented without default and delay.</p>

The Learned Counsel appointed as Commissioners by the Tribunal submitted they have visited the sites (entry point of Delhi) and have prepared their report. They pray for time to file the report during the course of the day. Liberty granted. We also direct the Learned Local Commissioner to file collective report in regard to the recommendations that they wish to make for better implementation of the directions of the Tribunal.

Let the copies of the inspection report be furnished to all the Learned Counsel appearing in this case for Government and Public Authority and state, who should file their response within one week from today.

The Learned Local Commissioners are directed to visit the entry points whenever they wish to. Police shall provide them due assistance and help to enable them to execute commission without obstruction and inconvenience. Copy of the report be given to all the Learned Counsel appearing for various State authority irrespective whether they are party or not.

It is scientifically established fact that the pollutants of ambient air quality are from vehicular pollution, dust pollution, pollution by burning and emission from industry. Today we have decided to deal with this case in phases to prevent and control of air pollution on the one hand and pass directions for restoration of ambient air quality. The matter pertaining to dust emissions from building construction, transportation C&D waste, mining and allied activity is being dealt.

Development in all fields is an essential feature of a developing country. If the stake holders carry out the

development activity in fragrant violation as to the principal of sustainable development the results can be disastrous. They may have serious adverse impact not only on environment and ecology of the area but even would raise serious issues of public health. Where construction activity is one of the very significant facet of development there it is one of the serious contributor of air pollution by generating dust. Dust could be generated purely from construction activity, transportation of construction material, construction debris waste and by carrying on mining activity. Dust emission from these activities attain dangerous dimensions when its carried out rampantly and in a unregulated manner. The stack holders for short economic gains do not take environmental preventive and protections measures prescribed under laws exposing not only their workers but the entire population of the area to variety of diseases some of them are even life threatening.

Despite the fact that the Benches of the Tribunal have expert members from diverse fields of environment. The Tribunal had adopted approach of consulting the stack holders while dealing with the issues of air pollution in Delhi and the steps that are required to be taken for improving the air quality.

The Committees were constituted and even deliberations issued vide orders dated 24th November, 2014 and 01st December, 2014 in regard to controlling the polluting and improving the ambient air quality in Delhi. In the Order dated 01st December, 2014 we had issued a set of directions particularly dealing with the requirements of prevention and control of air pollution resulting from emission of dust in the atmosphere. All the directions

contained in that order shall be read and construed as part of this Order and directions issued hereinafter.

The Expert Committee constituted by the Tribunal had collected samples from 36 different sites in Delhi, Haryana and Uttar Pradesh. The analysis reports indicate significant exceeding parameters. For instance nitrogen dioxide as per the prescribed standard is to be $84 \mu\text{g}/\text{m}^3$ was found to be between $146\text{-}208 \mu\text{g}/\text{m}^3$ in Faridabad in Delhi. The particulate matter as against permissible of PM_{10} $10 \mu\text{g}/\text{m}^3$ were found to be $484\text{-}276\text{-}948 \mu\text{g}/\text{m}^3$ in Delhi and Faridabad and the surroundings areas. The particulate matters with reference to $\text{PM}_{2.5}$ is excessively violative in Delhi and has gone upto 1284 as against prescribed standard of $60 \mu\text{g}/\text{m}^3$. Carbon dioxide in Delhi is found to be $7.81 \mu\text{g}/\text{m}^3$ against the prescribed value of $2 \mu\text{g}/\text{m}^3$.

Similar data was also taken note by the Tribunal in its order dated 16th March, 2015. Nitrogen dioxide was found to be $367 \mu\text{g}/\text{m}^3$ against the prescribed value of $80 \mu\text{g}/\text{m}^3$ on 140 occasions on 24 hours basis. The particulate matters $\text{PM}_{2.5}$ ranged between 30.41 to $1284 \mu\text{g}/\text{m}^3$ against the NAAQS value of $60 \mu\text{g}/\text{m}^3$. Carbon monoxide and benzene both were found to be exceeded.

This persuaded to pass the certain directions in that behalf. The same should also read as part of this order.

It has been widely reported that massive construction activity is going on without taking any precautionary and preventive measures. There are no covers scaffolding no housing of road to reduce dust dispersal. The construction materials are not covered, the workers are not provided with gadgets to prevent inhaling of dust particles particularly fine particles.

Thus there is dire need to immediately pass appropriate directions for preventing and controlling the pollution of air from dust and to improve ambient air quality particularly of NCR of Delhi.

We are not oblivious of all the difficulties that may come in the way of the bonafide purchaser and the builders for the restrained orders passed by on 16th March, 2015. But it is not only legal but even a social and corporate responsibility of all the builders to carry on construction activity or mining activity strictly in accordance with the prescribed rules. They must ensure that for small economic gains they do not expose the public including their purchasers and workers to serious diseases and adversely affecting the public health at large. The constitutional right to life, decent and clean environment has to take precedent over the right of an individual to carry on business activity.

Thus we pass the following directions:

- (i) No Corporation, authority or instrumentality of the State vested with the power of sanctioning plans, drawings for construction of any commercial, residential and even construction of small plots would impose a clear condition that sanction of plans is subject to the builder, owner or person seeking sanction would strictly comply with the directions contained in this order as well as the MoEF Guidelines, 2010 while raising construction.
- (ii) Such Authorities shall forth with issue notices to all the builders raising any kind of construction that they should strictly adhere to and comply with the directions contained in this order of the

Tribunal as well as MoEF Guidelines, 2010 in relation to precautions required to be taken while carrying on construction.

(iii) Every builder or owner shall put tarpaulin on scaffolding around the area of construction and the building. No person including builder, owner can be permitted to store any construction material particularly sand on any part of the street, roads in any colony.

(iv) The construction material of any kind that is stored in the site will be fully covered in all respects so that it does not disperse in the Air in any form.

(v) All the construction material and debris shall be carried in the trucks or other vehicles which are fully covered and protected so as to ensure that the construction debris or the construction material does not get dispersed into the air or atmosphere, in any form whatsoever.

(vi) The dust emissions from the construction site should be completely controlled and all precautions taken in that behalf.

(vii) The vehicles carrying construction material and construction debris of any kind should be cleaned before it is permitted to ply on the road after unloading of such material.

(viii) Every worker working on the construction site and involved in loading, unloading and carriage of construction material and construction debris shall be provided with mask to prevent inhalation of dust particles.

	<p>(ix) Every owner and or builder shall be under obligation to provide all medical help, investigation and treatment to the workers involved in the construction of building and carry of construction material and debris relatable to dust emission.</p> <p>(x) It shall be the responsibility of every builder to transport construction material and debris waste to construction site, dumping site or any other place in accordance with rules and in terms of this order.</p> <p>(xi) All to take appropriate measures and to ensure that the terms and conditions of the earlier order and these orders should strictly comply with by fixing sprinklers, creations of green air barriers.</p> <p>(xii) Compulsory use of wetjet in grinding and stone cutting.</p> <p>(xiii) Wind breaking walls around construction site.</p> <p>(xiv) All concerned Government that is state of NCT, Delhi state of U.P., state of Rajasthan and Haryana shall ensure that mining activity if otherwise permitted in accordance with law and orders of the Court is strictly regulated and carry out in a manner prescribed under rules and to ensure that least dust has emitted into air/atmosphere and all steps are taken to prevent the same.</p> <p>(xv) The Corporation, DDA, HUDA, NOIDA, Greater NOIDA Authority and all other Authorities and instrumentalities of the state and its department shall make all efforts to increase the 'tree cover' area by planting large number of trees of various species depending upon the quality content of soil</p>
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and other natural attendant circumstances.

(xvi) All the builders who are building commercial, residential complexes which are covered under the EIA Notification of 2006 shall provide green belt around the building that they construct. All Authorities shall ensure that such green belts are in existence prior to issuance of occupancy certificate.

(xvii) The state Government of NCT, Delhi, Haryana, Uttar Pradesh, state of Rajasthan, all Public Authorities in these states, Corporations, Development Agencies and all other Authorities persons and Departments of the state Government, Pollution Control Boards and Police Authorities shall ensure complete and expeditious compliance of all these directions with immediate effect.

a. The Station House Officer, Environmental Engineers, Engineers of the Corporation and of all the Regulatory and Development Authority responsible for sanctioning of plan, granting consent and issuance of completion certificate would be personally and strictly responsible for compliance of these directions in the area/areas that fall under their jurisdiction. In the event of default they shall be liable to pay compensation for such environmental degradation or for pollution of ambient air quality in NCR, Delhi particularly.

b. If any person, owner and or builder is found to be violating any of the conditions stated in this order and or for their non-compliance such

person, owner, builder shall be liable to pay compensation of Rs. 50,000/- per default in relation to construction activity at its site and Rs. 5,000/- for each violation during carriage and transportation of construction material, debris through trucks or other vehicles, in terms of Section 15 of the NGT Act on the principle of Polluter Pay. Such action would be in addition not in derogation to the other action that the Authority made take against such builder, owner, person and transporter under the laws in force.

c. The Government of NCT, Delhi shall take immediate step to enhance the capacity of its plant for reutilisation and recycling of C&D waste. It is undisputed on record that NCR, Delhi is generating nearly 4000 MT of C&D waste every day and the capacity of the plant is not able to utilised even 10% of such generated waste. All builders shall ensure that C&D waste is transported in terms of this order to the site in question only and due record in that behalf shall be maintained by the builders, transporters and NCR of Delhi.

d. We make it clear that even if constructions have been started after seeking Environmental Clearance under the EIA notification 2006 and after taking other travel but is being carried out without taking the preventive and protective environmental steps as stated in this order and MoEF guidelines, 2010, the State Government,

SPCB and any officer of any department as aforesaid shall be entitled to direct stoppage of work.

In relation to Lajpat Nagar, we make it clear that the cement Jersey Barriers would be placed at both the ends of the road. There shall be no crossing permitted from one end to the road and another end of the road. In other words, there would be no intersection. We are informed that the parking space as provided by the Board is able to accommodate nearly 550 cars which would have provided a great relief to the traffic congestion in Lajpat Nagar. This arrangement would continue in terms of the order of the Tribunal till further order. Police Authorities present before the Tribunal, shall ensure that all the directions issued by the Tribunal in regard to the de-congestion of traffic thus resulting in minimum emissions from vehicular pollution should be carried out strictly without default. The CPCB shall place on record ambient air quality analysis pre orders and post orders. We are informed that data of ambient air quality for 2007 to 2009 have been placed on record. The CPCB shall prepare a comparative table and DPCC shall fully assist in that behalf. Reference in the air quality report shall be also made regarding existing climatic condition at the time of collection of sample. Needless to mention that Delhi Metro is carrying on huge construction activities in Delhi, its public benefit and public importance cannot be denied but still they are required to ensure that they do not cause any air pollution. Therefore we direct Delhi Metro or any other Government or private construction agency carrying on massive construction project that they will strictly adhere to construction activities in terms of this

order and the guidelines contained in MoEF guidelines, 2010. The Learned Counsel appearing for the State of Haryana, State of U.P., NOIDA and Greater NOIDA submit that they will ensure that the directions of this order and that of 16.03.2015 will be complied with forthwith. The MCD, South will file an affidavit by the next date of hearing positively stating as to which place in Lajpat Nagar they would build the multi level parking. Chief Engineer would be present before the Tribunal on the next date of hearing.

List this matter on 17th April, 2015 at 02:00 PM.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(Prof. A.R. Yousuf)

.....,EM
(B.S. Sajwan)

