

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSWRIT PETITION(S)(CIVIL) NO(S). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) (AIR POLLUTION)

NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST: MR. HARISH N. SALVE, SR. ADVOCATE (A.C.) MS. APARAJITA SINGH, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. M.K. MARORIA MR. SANJAY KR. VISEN, MR. SUDEEP KUMAR, MR. KARAN SHARMA, MR. SANDEEP KR. JHA MR. JYOTI MENDIRATTA, MR. RAHUL KHURANA, MR. NIRAJ GUPTA ADVOCATES)

Date : 18-11-2024 This petition was called on for hearing today.

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UPON hearing the counsel the Court made the following
O R D E R

1. Pursuant to the request made by Ms. Aparajita Singh, learned Senior Advocate appointed as Amicus Curiae, today we have listed this Petition. We have listed this Petition today to find out how the Graded Response Action Plan (for short, "the GRAP") for NCR and adjoining areas published by the Commission for Air Quality Management (for short, "the Commission") in September 2024 is being implemented.

2. Stage III ('Severe' Air Quality) of the GRAP comes into picture when Delhi AQI ranges between 401-450. From the minutes of the meeting dated 13th November 2024 of the Sub-Committee of the Commission for dealing with the GRAP, it can be seen that, on 13th November 2024, the AQI had crossed 401. The learned Amicus Curiae stated that the AQI crossed 400 on 12th November, 2024.

Instead of immediately directing the implementation of Stage III of the GRAP, the Commission directed that Stage III should be implemented from 14th November 2024. The same is the case with the implementation of Stage IV ('Severe +' Air Quality). The order dated 17th November 2024 issued by the Commission records that the AQI crossed 450 at 6:00 p.m. on 17th November 2024. But still, a direction was issued to implement Stage IV from this morning.

3. From the submissions made across the Bar and from the minutes of the meeting dated 13th November, 2024, we find that the approach adopted by the Sub-Committee of the Commission is contrary to what is observed by this Court in paragraph 3 of the order dated 29th October, 2018 whereby a direction was issued to EPCA (the predecessor of the Commission) to take pre-emptive steps under the GRAP without strict adherence to the pollution stages delineated in the plan. The approach adopted by the Commission seems to be that it waited for improvement of the AQI and, therefore, the implementation of Stages III and IV of the GRAP was delayed. This is an entirely wrong approach. In anticipation of the AQI crossing the threshold limit, it is the duty of the Commission to start immediate implementation of Stages III and IV of the GRAP, as the case may be. The Commission cannot wait for the improvement of the AQI.

4. There is another issue which may require consideration. The issue is the data of which agency should be taken as the official data of the AQI level. The parties will have to be heard on this

aspect.

5. We direct all the State Governments of the NCR area to strictly implement Stage IV of the GRAP forthwith. All the NCR State Governments will immediately constitute teams to monitor the implementation of the actions required under Stage IV of the GRAP. The NCR State Governments and the Central Government will have to immediately take a call on the actions provided in clauses 5, 6, 7 and 8 of Stage IV and place the decision taken on record before the next date.

6. We direct the Government of NCT of Delhi and other NCR State Governments to create a grievance redressal mechanism to enable the citizens to lodge complaints about the violation of restrictions under Stage IV of the GRAP. It is pointed out that the Commission has a grievance redressal mechanism. We direct the Commission to look into the complaints and take prompt and immediate action thereon.

7. We make it clear that till this Court passes further orders, the implementation of Stage IV of the GRAP will continue even if AQI drops below 450. All the NCR State Governments and the Central Government will file compliance affidavits by 21st November, 2024.

8. We also direct the Commission to provide for more stringent actions at Stages III and IV of the GRAP and, perhaps, not to leave anything for the discretion of the Governments or the local

Authorities. The Commission will immediately take a call on this aspect.

9. The learned Amicus Curiae has tendered a compilation of documents across the Bar. Every disturbing factual aspect has been brought to the notice of this Court. The Indian Space Research Organisation (for short, "the ISRO") gets data from the NASA satellites, which pass over the NCR area at around 10:30 a.m. and 1:30 p.m. daily. Therefore, the instances of farm fires captured by the satellites are only during this limited period. Based on the information given by Dr Hiren Jethva, a senior research scientist at NASA Goddard Space Flight Center, the learned Amicus Curiae has pointed out that a South Korean satellite, GEO-KOMSAT 2A, which is a stationary satellite, has captured farm fires at 4:20 p.m. It is pointed out that there is a difference between the data collected through the stationery satellites and the data from the polar-orbiting satellites, such as NASA satellites, which are being relied upon by the ISRO. We, therefore, direct the Central Government as well as the Commission to make immediate arrangements for getting the data, either from the South Korean stationery satellite or any other stationery satellites, so that the data of farm fires throughout the day can be made available to the States to enable them to take immediate action. Needless to add that the Commission and the Central Government will also involve the ISRO in taking this step. The ultimate objective should be to ensure that all instances of farm burning throughout the day are reported to the concerned States so that they can take prompt action.

Compliance with this aspect shall also be reported by 22nd November, 2024. Needless to add that, the Central Government and the Commission will procure data from the stationery satellites from 1st October, 2024.

10. List the Petition at the end of the cause list on 22nd November, 2024 for considering the compliance with today's directions.

11. The constitutional obligation of the Central Government and the State Governments is to ensure that the citizens live in a pollution-free atmosphere. Therefore, in addition to the actions proposed under Stages III and IV of the GRAP, all possible actions shall be taken at the level of the State Governments to ensure that the AQI is brought down.

12. Notwithstanding what is provided in clause 5 of Stage IV of the GRAP, the Delhi Government and the NCR State Governments will take an immediate call on stopping physical classes of all standards up to the twelfth standard.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
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