HON'BLE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 1135 OF 2020

IN THE MATTER OF

ADITYA DUBEY ... PETITIONER

Versus

UNION OF INDIA & ORS. ... RESPONDENTS

AFFIDAVIT DATED 30.11.2021

ON BEHALF OF THE UNION OF INDIA

MINISTRY OF HOUSING AND URBAN AFFAIRS

PAPER-BOOK

[FOR INDEX PLEASE SEE INSIDE]

ADVOCATE FOR THE RESPONDENT: AMRISH KUMAR

HON'BLE SUPREME COURT OF INDIA

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MINISTRY OF HOUSING AND URBAN AFFAIRS

I, Ravi Kumar Arora S/o Sh. Om Prakash Arora aged about 48 years, presently working as Director Central Vista, Ministry of Housing and Urban Affairs having office at Room no 442 C , Nirman Bhavan New Delhi 110011, do hereby solemnly affirm and state as hereunder:

1. That, I am well acquainted with the facts and circumstances of the case and competent to swear this affidavit on behalf of MoHUA, one of the Ministries of Respondent No. 1 in the instant Writ Petition.

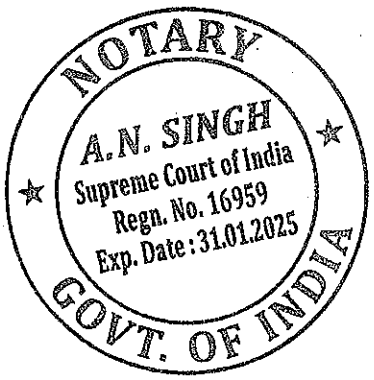
2. I state and submit that I am filing this Affidavit in Reply in respectful compliance of the order dated 29.11.2021

NOTARY A.N. SINGH Supreme Court of India Regn. No. 16959 Exp. Date: 31.01.2025 INDIA

passed by this Hon'ble Court with regard the construction activities undertaken by the Central Government. A copy of the said order dated 29.11.2021 is annexed hereto and marked as **Annexure R-1** at pg. 7-14.

3. I state and submit that when the direction No 44 dated 16.11.2021 was passed by the Commission for Air Quality Management in National Capital Region and Adjoining Areas [hereinafter "the Commission"], the following was mentioned with regard to the ban on construction activities.

> ***"4. Dust Control Measures***
>
> ***NCR States and GNCTD shall ensure:***
>
> *(i) To stop construction and demolition activities in NCR till 21 st November, 2021 except for the following categories of projects:*
>
> *(a) Railway services / Railway stations*
> *(b) Metro R~l corporation services, including stations*
> *(c) Airports and Inter State Bus Terminals (ISBTs) ·*
> *(d) National security/ defence related activities / projects of National importance; subject to strict compliance of the C&D Waste Management Rules and dust control norms including compliance with the directions of the Commission."*



4. It is submitted that construction activities, at present undertaken by the Central Government are in two parts-

(i) The new Parliament building and Central Vista avenues which are projects of national importance; and

(ii) Metro Rail, Railways, Airports, ISBTs etc

5. I state and submit that apart from above, all other construction activities being carried out by CPWD (an attached office of the Ministry of Housing and Urban Affairs, Government of India) in Delhi and NCR Region, as per CPWD report, were stopped in compliance with the Commission's Direction No 44.

6. I state and submit that so far as the Parliamentary building and the Central Vista avenue site is concerned, it complies with Construction and Demolition Waste Management Rules and each and every condition which is put to ensure that it does not cause any pollution.

7. I state and submit that in so far as construction of new Parliament Building and redevelopment of Central Vista

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Avenue is concerned, the answering respondent has taken all the measures as contemplated under the C&D Waste Management Rules which *inter-alia* includes measures like use of anti-smog gun, mist spray system, use of dust suppressant like magnesium chloride, use of conveyor belt to transfer construction material, keeping all construction material in wet condition etc.

Considering the limited scope of this Affidavit, the said details are not enumerated herein. However, the answering respondent craves liberty to place the same before this Hon'ble Court, if needed.

8. I state and submit that the above quoted directions contained in Government order dated 16.11.2021 was not extended by the Commission in its order dated 21.11.2021. However, this Hon'ble Court was pleased to "reimpose" the said construction ban with two exceptions vide order dated 24.11.2021, copy of which is annexed herewith and marked as **Annexure R-2** at pg. 15-19.

9. I state and submit that thereafter considering the position of the air quality, another order was passed dated

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27.11.2021 again continuing the same ban which continued from 16.11.2021 with the two additional exceptions (i) Non-polluting activities relating to construction such as the plumbing work, interior decoration, electrical work and carpentry are allowed to be continued; and (ii) The States shall use the funds which have been collected as labour cess for the welfare of construction workers to provide them subsistence for the period during which construction activities are prohibited and pay wages notified under the Minimum Wages Act for the respective categories of workers as earmarked by this Hon'ble Court. A copy of the order dated 16.11.2021. 24.11.2021 and 27.11.2021 issued by the Commission said three orders are annexed herewith and marked as **Annexure R-3** at pg. 20-28, **Annexure R-4** at pg. 29-31 and **Annexure R-5** at pg. 32-33 respectively.

10. I state and submit that the rest of the construction activities by CPWD in Delhi and NCR, as reported by CPWD, have been stopped in pursuance and in compliance of the order dated 16.11.2021 till date.

NOTARY
A. N. SINGH
Supreme Court of India
Regn. No. 16959
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GOVT. OF INDIA

DEPONENT
निदेशक/Director
आवासन और शहरी कार्य मंत्रालय
Ministry of Housing and Urban Affairs
भारत सरकार/Govt. of India
निर्माण भवन, नई दिल्ली
Nirman Bhawan, New Delhi

VERIFICATION - 1 DEC 2021

Verified at New Delhi on the 01st December, 2021 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been suppressed or concealed therein.

I identify the deponent who has signed/put T.I. in my presence
Ashwani Mittal
Executive Engineer
CPD-I CPWD
New Delhi
01-12-2021
Y 21005052344

- 1 DEC 2021

ATTESTED
A.N. Singh, Advr.
Notary Public
Govt. of India, Delhi
Mob.: 9718139951, 7992530115

DEPONENT
निदेशक/Director
आवासन और शहरी कार्य मंत्रालय
Ministry of Housing and Urban Affairs
भारत सरकार/Govt. of India
निर्माण भवन, नई दिल्ली
Nirman Bhawan, New Delhi

NOTARY
A.N. SINGH
Supreme Court of India
Regn. No. 16959
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GOVT. OF INDIA

Certified that the above Named Deponent identify by Shri/Smt. Ashwani Mittal executive engineer
Sclemenly affarmed before me at Delhi
S. No. 28030
The contents of the affidavit which have been read & explained to me are true and correct

Notary

- 1 DEC 2021

ITEM NO.301 Court 1 (Video Conferencing) SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(Civil) No.1135/2020

ADITYA DUBEY (MINOR) & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(IA No. 98165/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.150881/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 149458/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 152069/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 149457/2021 - INTERVENTION APPLICATION, IA No. 148255/2021 - INTERVENTION APPLICATION, IA No. 152068/2021 - INTERVENTION APPLICATION, IA No. 151957/2021 - INTERVENTION APPLICATION, IA No. 150880/2021 - INTERVENTION APPLICATION & IA No. 150968/2021 - INTERVENTION/IMPLEADMENT)

Date : 29-11-2021 This matter along with applns. were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

Mr. Vikas Singh, Sr.Adv.
Mr. Nikhil Jain, AOR
Mr. Meenesh Dubey, Adv.
Ms. Deepeika Kalia, Adv.
Mr. Satya Prakash, Adv.
Mr. Vinod Kr. Jain, Adv.
Mr. Satwik Mishra, Adv.
Mr. Pramod Kumar, Adv.

For Respondent(s)

Mr. Tushar Mehta, SG
Ms. Aishwarya Bhati, ASG
Mr. Gurmeet Singh Makker, AOR
Ms. Suhashini Sen, Adv.
Mr. Navanjay Mahapatra, Adv.
Ms. Archana Pathak Dave, Adv.
Mr. Rajat Nair, Adv.

Ms. Uttara Babbar, AOR

Mr. D.S. Patwalia, AG, Punjab
Ms. Ranjeeta Rohatgi, AOR
Mr. Anirudh Bakhru, Adv.
Mr. Gauravjit Patwalia, Adv.

Mr. Anil Grover, AAG, Haryana
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjeev Prakash Upadhyay, Adv.
Mr. Sanjay Kumar Visen, AOR

Dr. A.M. Singhvi, Sr. Adv.
Mr. Rahul Mehra, Sr. Adv.
Ms. Jyoti Mendiratta, AOR

Mr. Kaushal Yadav, AOR
Mr. Kamlesh Kumar Maurya, Adv.
Mr. Nandlal Kumar Mishra, Adv.
Mr. Shafik Ahmed, Adv.
Mr. Vivekanand Rana, Adv.
Ms. Yashoda Katiyar, Adv.
Mr. Vishal Tiwari, Adv.
Mr. Dhruv Singh, Adv.

Mr. Ravindra Raizada, AAG,UP
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashiwan Mishra, Adv.
Mr. Anurag Tiwari, Adv.
Mr. Kamlendra Mishra, AOR

Mr. Haresh Raichura, AOR
Ms. Saroj Raichura, Adv.
Mr. Kalp Raichura, Adv.
Mr. Ram Bhadauria, Adv.
Mr. Rajat Vats, Adv.

Mr. Rakesh Dahiya, AOR
Mr. Aditya Dahiya, Adv.
Mr.Ravi Swami, Adv.
Mr. Bhudev Prasad Vaishnav, Adv.

Mr. Anilendra Pandey, AOR
Charanpal Singh Bagri, Adv.
Dr. Gurjit Kaur Jassar Bagri, Adv.
Mr. Sandeep, Adv.
Mr. Manoj Kumar, Adv.
Mr. Raju sonkar, Adv.

Mr. Rahul Shukla, Adv.

Mr. Kumar Dushyant Singh, AOR

Ms. Shyel Trehan, Adv.
Mr. Chirayu Jain, Adv.
Mr. Raghav Anand, Adv.
Mr. Shivendra Singh, AOR

Ms. Sanchita Ain, AOR

Mr. Manish Kumar, Adv.
Mr. Nakul Jain, Adv.
Mr. Piyush Kaushik, Adv.
Mr. Amit Kumar, Adv.
Mr. Hayat Ahluwalia, Adv.
Ms. Divya Roy, AOR

UPON hearing the counsel the Court made the following

O R D E R

The Court is convened through Video Conferencing.

Heard Mr. Tushar Mehta, learned Solicitor General appearing for the Union of India, Dr. A.M. Singhvi, learned Senior counsel appearing for the Government of National Capital Territory of Delhi, Mr. D.S. Patwalia, learned Advocate General appearing for the State of Punjab, Mr. Anil Grover, learned Additional Advocate General appearing for the State of Haryana, Mr. R.K. Raizada, learned Senior counsel appearing for the State of Uttar Pradesh and Mr. Vikas Singh, learned Senior counsel appearing for the petitioners at a considerable length today.

At the commencement of hearing, Mr. Tushar Mehta, learned Solicitor General has filed an affidavit dated 28-11-2021 on behalf of Ministry of Environment, Forest and Climate Change (Respondent No.1) in compliance with the directions passed on 24-11-2021.

A perusal of the affidavit would show that the respondents are taking long term as well as short-term measures to combat air pollution and have passed certain directions, after consultation with the different State Governments.

Paras 14, 15, 16 and 17 of the said affidavit dated 28-11-2021 are extracted below:-

"Para 14. It is submitted that as pointed out earlier significant cause for degradation of the environment in the area of NCR was found to be that of polluting industries. Accordingly, the Commission had issued directions on 12.08.2021 to the State Governments of Uttar Pradesh, Haryana and Rajasthan for shifting of industries operating in NCR districts to PNG/cleaner fuels. It is submitted that as per the data received by the Commission the said direction is either partly complied with or still remains to be complied with. Accordingly, it is respectfully prayed that this Hon'ble Court may be pleased to direct the respective State Government to file their compliance report in respect thereto before this Hon'ble Court.

Para 15. Furthermore, the industries which already have gas supply available to them, but are still using other polluting fuels, have been directed to be closely and regularly monitored for switching over to cleaner gaseous fuels at the earliest. Here again, in the respectful submission of the deponent as per the data received by the Commission, the said direction is either partly complied with or still remains to be complied with, uniformally by all the industries. Accordingly, it is respectfully prayed that this Hon'ble Court may be pleased to direct the respective State Governments to file their compliance report in respect thereto before this Hon'ble Court.

Para 16. In view of the aforesaid facts and circumstances, it is respectfully submitted that though the Commission has been regularly and scrupulously monitoring and ensuring compliance of the directions issued by it, however, as stated above, on ground, there are reports of certain short-comings in the implementation of the directions issued by the Commission by the respective State Governments. Thus in the interest of justice and in interest of the emergent need to improve the Air Quality in the region, it is respectfully submitted that the respective State Governments may be directed to submit its compliance report before this Hon'ble Court on the following issues:-

i. Status of industries in NCR running on any other fuels, other than PNG, where PNG infrastructure and supply is already available;

ii. Status of implementation of direction of immediate closure of industries running on unapproved fuels or

industries running with invalid Consent to Operate (CTO);
iii. Status of implementation of the direction of ban on use of diesel generating (DG) sets, except as back up for emergency purposes;

iv. Status of implementation of the direction of impounding petrol/diesel vehicles, which are more than 15/10 years old and still found plying in the NCR;

v. Steps taken by the respective State Governments in employing the efforts on ground towards dust prevention, control and suppression efforts from roads and from open areas along the right of way;

vi. Status on the checks and action taken on visibly polluting vehicles and vehicles without valid PUC;

vii. Steps taken by the respective State Governments for dust mitigation measures in C&D sites, C&D waste management as per the rules and directions related to transportation of C&D materials;

viii. Steps taken by the respective State Governments for registration of construction projects on the Web Portal of respective states for remote monitoring by enforcement agencies and self-certification of compliance of rules related to C&D activities by the project proponents;

17. It is respectfully submitted that in anticipation of the adverse air quality scenario that generally prevails during the winter months in the region, a special preparatory meeting was held on 20th September., 2021, with the Chief Secretary of Government of NCT of Delhi for prevention and control of Air Pollution in NCT of Delhi. The following issues were discussed in detail and appropriate measures were advised to the Government of NCT of Delhi, as under:-

i. Setting up of Web Portal for Monitoring of Dust Control measures at Construction and Demolition sites;

ii. Setting up of "Dust Control & Management Cell" by Road Owning/maintaining/construction agencies for monitoring and effective implementation of dust control measures;

iii Effective implementation of plan of Action for eliminating the fire at landfill sites and open

biomass burning falling under their administrative jurisdiction;

iv. Implementation of the Greening and Plantation Action Plan;

v. Timely submission of Report on "safeguarding & Enforcement measures including monitoring/ analysis of the progress made on the various parameters captured in bi-monthly reports;

vi. Augmentation of public transport system by employing more buses. As per the direction of this Hon'ble Court, the number of bus fleet within GNCT was required to be augmented to app. 11,000/-. However, the fleet of 6000 app. Buses which were existed in year 2010 have now depleted to app. 3000. Thus urgent steps are required to be taken to augment bus fleet in GNCT.

vii. Expediting finalization of pilot study for conversion of CNG to H2CNG buses.

viii. Improvement in first and last mile connectivity in NCT of Delhi to boost Public Transport System by removing the cap on registration of auto-rickshaws in Delhi to promote e-auto-rickshaws;

ix. Constitution of Task Forces and intelligent Traffic Management System (IITM) for smooth traffic management;

x. Effective enforcement of PUC System;

xi. Augmentation of the battery charging/battery swapping infrastructure to promote e-mobility;

xii Action on Petrol/Diesel Vehicles more than 15/10 years old, plying on roads in Delhi;

xiii. Submission of fortnightly report on the inspection of the industries for compliance of use of only approved fuels;

xiv. Effective implementation of the Pilot Project in SDMC jurisdiction for abatement of Air Pollution from "Non-Point" dispersed sources in association with Air Pollution Action Group(APAG)."

It would also be seen from the said Affidavit that the Commission For Air Quality Management In National Capital Region and Adjoining Areas *inter alia* passed the following directions as far back as on 11-6-2021 which read thus:-

> "WHEREAS, dust from the Construction and Demolition (C&D) activities is a major and consistent source of Air Pollution in the National Capital Region and contributes adversely to PM 2.5 and PM 10 levels and thus, is a great cause of in abatement of Air Pollution"

The said Commission issued the above-mentioned directions to the Chairman, New Delhi Municipal Council, the Chairman, Central Pollution Control Board and the Member Secretary, Delhi Pollution Control Committee.

The affidavit dated 28-11-2021 indicates that some of the directions were complied with partially and certain others were not complied with at all by the State Governments and other agencies.

In view of the fact that the affidavit dated 28-11-2021 is filed by the Ministry of Environment only today, we are inclined to grant an opportunity to the Government of National Capital Territory of Delhi and the State Governments of Uttar Pradesh, Haryana, Punjab and Rajasthan to respond to the averments made in the affidavit filed by Respondent No.1, well before Wednesday, the 1st December, 2021.

We would like to specifically know from the aforesaid State Governments about those directions which have since been complied with by them and those which have not yet been complied with by them, along with reasons for such non-compliance.

We further direct the State Governments to comply with the said directions forthwith and file compliance affidavits in this behalf well before the next date of hearing.

Mr. Vikas Singh, learned Senior counsel appearing for the petitioner has raised certain issues with regard to construction activities being carried out in the National Capital Territory of

Delhi, which according to him, is the major cause of air pollution in Delhi.

In view of the above, Mr. Tushar Mehta, learned Solicitor General is directed to file response to the said submission made by Mr. Vikas Singh, learned Senior counsel and get instructions in this behalf on the next date of hearing.

As jointly prayed by the learned Senior counsels appearing for the parties, list the matter on Thursday, the 2nd December, 2021.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(R.S. NARAYANAN)
COURT MASTER (NSH)

ITEM NO.301 COURT NO.1 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).1135/2020

ADITYA DUBEY (MINOR) & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

IA No. 98165/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 150881/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 152069/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 149458/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 149457/2021 - INTERVENTION APPLICATION
IA No. 148255/2021 - INTERVENTION APPLICATION
IA No. 152068/2021 - INTERVENTION APPLICATION
IA No. 151957/2021 - INTERVENTION APPLICATION
IA No. 150880/2021 - INTERVENTION APPLICATION
IA No. 150968/2021 - INTERVENTION/IMPLEADMENT

Date : 24-11-2021 This matter was called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s) Mr. Vikas Singh, Sr.Adv.
Mr. Nikhil Jain, AOR
Mr. Meenesh Dubey, Adv.
Ms. Deepika Kalia, Adv.
Mr. Satya Prakash, Adv.
Mr. Vinod Kr. Jain, Adv.
Mr. Satwik Mishra, Adv.

For Respondent(s) Mr. Tushar Mehta, SG
Ms. Aishwarya Bhati, ASG
Mr. Rajat Nair, Adv.
Ms. Suhasini Sen, Adv.
Mr. Navanjay Mahapatra, Adv.
Ms. Archana Pathak Dave, Adv.
Mr. Gurmeet Singh Makker, AOR

For State of Punjab Mr. D.S. Patwalia, Sr.Adv.
Mr. Anirudh Bakhru, Adv.
Ms. Ranjeeta Rohatgi, AOR
Mr. Gauravjit Patwalia, Adv.

Dr. A.M. Singhvi, Sr.Adv.

Ms. Jyoti Mendiratta, AOR
Mr. Amit Bhandari, Adv.

Ms. Uttara Babbar, AOR

Mr. Rajiv Raizada, Sr.Adv./AAG
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashwin Mishra, Adv.
Mr. Anurag Tiwari, Adv.
Mr. Kamlendra Mishra, AOR

Mr. Anil Grover, Sr.AAG
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Satish Kumar, Adv.
Ms. Babita Mishra, Adv.
Mr. Sanjay Kumar Visen, AOR

Mr. Rakesh Dahiya, AOR
Mr. Aditya Dahiya, Adv.
Mr. Ravi Swami, Adv.
Mr. Bhudev Prasad Vaishnav, Adv.

Mr. Anilendra Pandey, AOR
Mr. Charanpal Singh Bagri, Adv.
Dr. Gurjit Kaur Jassar Bagri, Adv.
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Ms. Tanvi Tuhina, Adv.

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Mr. Vishal Tiwari, Adv.
Mr. Dhruv Singh, Adv.

Mr. Manish Kumar, Adv.
Mr. Nakul Jain, Adv.
Mr. Piyush Kaushik, Adv.
Mr. Amit Kumar, Adv.
Mr. Hayat Ahluwalia, Adv.

Ms. Divya Roy, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Vikas Singh, senior counsel for the petitioners, Mr. Tushar Mehta, Solicitor General on behalf of the Union of India, Dr. A.M. Singhvi, senior counsel on behalf of the Government of National Capital Territory of Delhi, Mr. Rakesh Dahiya, Mr. Manish Kumar and Ms. Shyel Trehan, appearing on behalf of the applicant/intervenors.

The Solicitor General submitted that (i) the Air Quality Index of Delhi this morning was 290 as compared to 403 last week; (ii) In view of the improvement in Delhi's air quality the ban on construction activities has been lifted with effect from 22.11.2021; (iv) decisions have been taken by the Commission for Air Quality Management in National Capital Region and Adjoining Areas at a meeting on 21.11.2021; (v) the Note tendered indicates that the Commission by Direction No.44 dated 16.11.2021 directed the NCR States and Government of NCT of Delhi to take concerted action and preventive measures in various sectors to mitigate the adverse air quality; (vi) to minimise industrial pollution, industries which are already connected to PNG supply but are still using other fuels have been closed down; (vii) industries which were using unapproved fuels have also been closed down; and (viii) intensive and continuous drives to monitor compliance of air pollution control norms by industrial units and for suitable penal action and/or closure have been adopted.

The Solicitor General also referred to the Affidavit dated 16.11.2021 filed on behalf of the Ministry of Environment, Forests and Climate Change (respondent No.1 herein) in compliance with the order dated 15.11.2021 and read out various steps taken by the Government for effective control of air pollution in Delhi-NCR.

The Solicitor General submitted that a plan for graded response has been prepared in pursuance of which measures are identified to be taken progressively on the basis of worsening levels of ambient air pollution. The graded response plan which has

been formulated envisages that action is to be taken after a deterioration in the air quality is actually recorded. In other words, action is proposed after air quality has deteriorated. We direct that instead of waiting for the air quality to deteriorate before initiating action under the graded response plan, necessary measures must be put into place in anticipation of a deterioration of air quality. For this purpose, it is necessary for the Commission to engage expert agencies with domain knowledge in meteorological data and statistical modelling. The Commission must commission a scientific study of air quality based on available data of previous years bearing upon recorded levels of air pollution. The study must factor in seasonal variations and other relevant parameters. Once a scientific model is available, which factors in wind velocity as well as natural and man-made phenomena, the graded response plan can be modulated to provide for measures being taken in advance, based on anticipated changes in air quality without waiting for the air quality to deteriorate. On this basis steps can be planned at least a week in advance and even earlier, based on anticipated levels of air pollution in the foreseeable future. The Commission shall carry out the above exercise within a month and report the steps taken for compliance with this direction.

In the meantime, as an interim measure and until further orders, we re-impose the ban on the construction activities in the NCR subject to the following two conditions:-

(i) Non-polluting activities relating to construction such as the plumbing work, interior decoration, electrical work and carpentry are allowed to be continued;

(ii) The States shall use the funds which have been collected as labour cess for the welfare of construction workers to provide them subsistence for the period during which construction activities are prohibited and pay wages notified under the Minimum Wages Act for the respective

categories of workers.

For further consideration, list the matter on 29.11.2021.

In the meantime, the Central Government, Delhi-NCR States and the Commission are directed to take appropriate steps to deal with the situation as directed by this Court from time to time.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(R.S. NARAYANAN)
COURT MASTER (NSH)

COMMISSION FOR AIR QUALITY MANAGEMENT
IN NATIONAL CAPITAL REGION AND ADJOINING AREAS
17th Floor, Jawahar Vyapar Bhawan (STC Building)
Tolstoy Marg, New Delhi-110016

F.No. A-110018/01/2021-CAQM/1461-1486 Dated: 16.11.2021

Subject: Directions under Section 12 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 regarding steps for effective control of air pollution in wake of the prevailing air quality scenario in Delhi-NCR

WHEREAS, Ministry of Environment, Forest and Climate Change, Government of India, in exercise of the powers conferred under Section 3 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act 2021, has constituted the Commission for Air Quality Management in National Capital Region and Adjoining Areas (hereinafter referred to as the Commission);

WHEREAS, Section 30 of the Act, 2021 provides that anything done or any action taken under the erstwhile Ordinance 2020 shall be deemed to have been done or taken under the corresponding provisions of the Ordinance 2021;

WHEREAS, under Section 12 (1) of the Act, the Commission has powers to take all such measures, issue directions, etc., as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas;

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WHEREAS, Section 12 (2) (xi) of the Act, empowers the Commission to issue directions in writing to any person, officer, or any authority and such person, officer or authority shall be bound to comply with such directions;

WHEREAS, the Commission has been highlighting that Road dust, dust from Construction and Demolition sites, Industrial Pollution, Vehicular Pollution, agricultural stubble burning, burning of biomass/ municipal solid waste, bursting of fire crackers etc. and unfavorable meteorological conditions in NCR particularly during the winter season are the major contributing factors for deterioration of air quality in the region;

WHEREAS, the Commission has repeatedly taken up the matter relating to air pollution in NCR with the State governments of Haryana, Rajasthan, Punjab, Uttar Pradesh and Government of NCT of Delhi and various organisations concerned of the Central and State Governments/ GNCTD and has issued Directions, Advisories and conveyed decisions for effective implementation of measures for abating air pollution in NCR region;

The Commission has been holding meetings periodically to review the situation.

WHEREAS, the Hon'ble Supreme Court of India heard the Writ Petition (Civil) No. 1135 of 2020 titled as Aditya Dubey Vs. Union of India & Ors. on 15.11.2021;

WHEREAS, in respectful compliance of the directions of the Hon'ble Supreme Court, 8th Meeting of the Commission for Air Quality Management in NCR and Adjoining Areas was convened in an emergent mode at 10:00 am on 16.11.2021, to consider taking further and more stringent steps to effectively control air pollution in identified sectors viz. construction activities, industries,

transport, thermal power plants, stubble burning etc. and also for consideration of "Work From Home" by the Central Government and State Governments for their offices in the NCR.

WHEREAS, Dr. V.K. Soni, Scientist 'F', IMD presented before the Commission, a perspective of the forecast for air quality, wind velocity, mixing depth etc. in the region in the coming days. It was advised that the air quality over Delhi-NCR is likely to remain in "Very Poor" category and may slip into Severe category by night on 16.11.2021. The air quality is likely to improve marginally but remain in Very Poor category on 17.11.2021 and 18.11.2021. The air quality is likely to remain in Very Poor category and improve from 21.11.2021 owing to relatively strong winds. $PM_{2.5}$ will be the predominant pollutant. Lower Ventilation Index in coming five days i.e. from 17.11.2021 to 21.11.2021 is unfavourable for dispersion of pollutants.

WHEREAS, besides the Members of the Commission, Chief Secretaries/ Addl. Chief Secretaries/ Pr. Secretaries of the Departments concerned in the States of Uttar Pradesh, Punjab, Haryana, Delhi and Rajasthan were special invitees in the meeting to make their submissions and give their views and suggestions in this context. Secretaries to GOI in the Ministries of Environment, Forest and Climate Change, Secretary of Power, Secretary of Deptt. of Personnel and Training and Addl. Secretary, MoHUA and other senior officers from organisations concerned in the Central Government and from the State of Punjab, NCR States and Govt. of NCT of Delhi also provided their valuable suggestions and inputs in the respective fields during the detailed discussions.

WHEREAS, based on the detailed deliberations and in after considering the views expressed by the special invitees from the Central/ State Governments/ GNCTD and the Members of the Commission and based on a general consensus which emerged in the meeting, as a matter of emergency and

abundant caution, certain decisions are taken by the Commission in the matter.

NOW THEREFORE, in view of the facts stated above and the compelling need to prevent further deterioration of environment and towards improvement of air quality in Delhi and NCR, the Commission, in exercise of its powers conferred upon it under Section 12 (2) (xi) of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act 2021, directs that following measures shall be implemented with strict force with immediate effect:

1. Industrial Pollution

NCR States and GNCTD shall ensure that:

(i) All Industries in NCR having gas connectivity shall be run only on gas as a fuel failing which Industries concerned shall be closed.

(ii) This Commission has already repeatedly directed not to permit any industry to use unapproved fuels. All industries in NCR still using unapproved fuels shall be closed by respective Governments with immediate effect.

(iii) All Industries in NCR where gas connectivity is available shall immediately be shifted to gas and State Governments to furnish industry-wise date of shifting.

(iv) NCR State Governments and GNCTD shall further set up effective enforcement mechanism including intensive and continuous drives by deputing adequate number of teams consisting of senior officers

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to monitor compliance of air pollution emission control norms by Industrial Units and for suitable penal action and / or closure.

2. Thermal Power Plants

(i) Of the 11 thermal power plants located within 300 km radius of Delhi, only 5 power plants namely NTPC, Jhajjar; Mahatma Gandhi TPS, CLP Jhajjar; Panipat TPS, HPGCL; Nabha Power Ltd. TPS, Rajpura and Talwandi Sabo TPS, Mansa shall only be allowed to schedule their operations and the rest shall remain inoperative at least till 30th November, 2021.

(ii) Secretary, Ministry of Power informed that load requirements, if any, arising out of such closures shall be duly facilitated through power supply from other power plants located beyond 300 km radius of Delhi.

3. Vehicular Pollution / Transport

NCR States and GNCTD shall:

(i) Stop entry of trucks in Delhi except the trucks carrying essential commodities, till 21st November, 2021 subject to further review for extension of this date.

(ii) Plying of diesel and petrol vehicles of more than 10 and 15 years respectively in NCR is a serious matter and the authorities shall ensure that no vehicles of more than 10 years and 15 years using diesel and petrol respectively are found plying on road.

(iii) Stop plying of visibly polluting vehicles and vehicles without PUC in NCR. Checks for PUC may be primarily carried out at the petrol pumps so as to obviate congestion on free roads.

(v) Deploy traffic task-force teams to closely monitor all busy traffic intersections, busy market areas, unauthorized parking lots etc. and take every possible step towards ensuring smooth flow of traffic and avoiding congestion.

(vi) GNCTD to expeditiously procure and put on road adequate number of CNG buses at the earliest.

4. Dust Control Measures

NCR States and GNCTD shall ensure:

(i) To stop construction and demolition activities in NCR till 21st November, 2021 except for the following categories of projects:

(a) Railway services / Railway stations
(b) Metro Rail corporation services, including stations
(c) Airports and Inter State Bus Terminals (ISBTs)
(d) National security/ defence related activities / projects of National importance;

subject to strict compliance of the C&D Waste Management Rules and dust control norms including compliance with the directions of the Commission.

(iii) Deploy Anti-smog guns, water sprinklers (including supplementing such efforts through large scale deployment of fire tenders etc.) and

application of dust suppressants to be carried out in all vulnerable hotspots, at least 3 times in a day.

(iv) Augment availability of road sweeping machines and water sprinklers in NCR through emergent procurement measures.

(v) Set up effective enforcement mechanism including intensive drives by deputing adequate number of teams consisting of senior officers to monitor compliance of air pollution emission control norms by the C&D projects and heavy penal action and/ or closure directions be issued with immediate effect.

(vi) Impose heavy penalty on persons/ organizations responsible for stacking construction materials or C&D waste on roads and right of ways in NCR.

5. DG Sets

NCR States and GNCTD shall enforce a strict ban on use of DG sets, except for emergency services, which are stipulated in the orders of the Sub-Committee on invocation of GRAP from time to time. Uninterrupted power supply to facilitate the effectiveness of this measure shall to be ensured by the respective electricity supply agencies in Delhi-NCR.

6. Encouraging Work From Home (WFH) to further ease vehicular pollution

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(i) NCR State Governments shall allow Work from Home (WFH) for at least 50% of their staff in offices in NCR, till 21st November, 2021 subject to further review.

(ii) NCR State Governments shall encourage at least 50% of staff working in private establishments in NCR are also allowed to work from home till 21st November, 2021 subject to further review.

7. All public and private Schools, Colleges and Educational Institutions in NCR shall remain closed until further orders allowing only online mode of education.

8. These directions shall be closely monitored by the Chief Secretaries of NCR States / GNCTD on a regular basis for effective field level implementation and control of air pollution and compliance report shall be filed before this Commission on 22.11.2021.

(Arvind Nautiyal)
Member Secretary
Tel No.: 011-23701197
Email: arvind.nautiyal@gov.in

To:

1. The Chief Secretary, Government of NCT of Delhi
2. The Chief Secretary, Government of Haryana
3. The Chief Secretary, Government of Punjab
4. The Chief Secretary, Government of Rajasthan
5. The Chief Secretary, Government of Uttar Pradesh

Copy to:

1. The Chairperson and all Members of the Commission for Air Quality Management in NCR and Adjoining Areas
2. All Associate Members of the Commission for Air Quality Management in NCR and Adjoining Areas
3. The Secretary, Ministry of Environment, Forest and Climate Change, Government of India
4. The Secretary, Ministry of Power, Government of India
5. The Secretary, Ministry of Housing and Urban Affairs, Government of India
6. The Secretary, Department of Personnel and Training, Government of India

(Arvind Nautiyal)
Member Secretary

Annexure R-4

DIRECTION NO. 45

COMMISSION FOR AIR QUALITY MANAGEMENT
IN NATIONAL CAPITAL REGION AND ADJOINING AREAS
17th Floor, Jawahar Vyapar Bhawan (STC Building)
Tolstoy Marg, New Delhi-110001

F.No. A-110018/01/2021-CAQM/ /577-80 Dated: 25.11.2021

Subject: Directions under Section 12 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 regarding steps for effective control of air pollution in wake of the prevailing air quality scenario in Delhi-NCR – Running of Schools, Colleges and educational institutions in physical mode-reg.

WHEREAS, Ministry of Environment, Forest and Climate Change, Government of India, in exercise of the powers conferred under Section 3 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act 2021, has constituted the Commission for Air Quality Management in National Capital Region and Adjoining Areas (hereinafter referred to as the Commission);

WHEREAS, under Section 12 (1) of the Act, the Commission has powers to take all such measures, issue directions, etc., as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas;

WHEREAS, Section 12 (2) (xi) of the Act, empowers the Commission to issue directions in writing to any person, officer, or any authority and such person, officer or authority shall be bound to comply with such directions;

WHEREAS, the Commission has repeatedly taken up the matter relating to air pollution in NCR with the State governments of Haryana, Rajasthan, Punjab, Uttar Pradesh and Government of NCT of Delhi and various organisations concerned of the Central and State Governments/ GNCTD and has issued Directions, Advisories and conveyed decisions for effective implementation of measures for abating air pollution in NCR region;

WHEREAS, the Commission in exercise of the powers conferred under Section 12(2) (xi) of the Commission for Air Quality Management in NCR and Adjoining Areas Act 2021, had issued statutory directions on 16.11.2021 for measures to be implemented with strict force with immediate effect in various sectors as enlisted in the above referred directions;

WHEREAS, in terms of S. No. 7 of the above referred directions, it was directed that "All public and private Schools, Colleges and Educational Institutions in NCR shall remain closed until further orders allowing only online mode of education."

WHEREAS, the matter has been further reviewed in wake of the prevailing air quality scenario and meteorological conditions;

NOW THEREFORE, in exercise of the powers conferred under Section 12(2) (xi) of the Commission for Air Quality Management in NCR and Adjoining Areas Act 2021, in furtherance of S. No. 7 of the directions contained in the order dated 16.11.2021, the Commission has decided as under:

> "The NCR States and the Govt. of NCT of Delhi may consider and take appropriate decisions for resumption of physical classes in schools, colleges and educational institutions in the NCR. However, wherever the

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State Governments / GNCTD opt to continue with the online mode of education, such schools/ colleges/ educational institutions shall be permitted to open for the purpose of conduct of examinations and practicals etc."

(Arvind Nautiyal)
Member Secretary
Tel No.: 011-23701197
Email: arvind.nautiyal@gov.in

To:

1. The Chief Secretary, Government of NCT of Delhi
2. The Chief Secretary, Government of Haryana
3. The Chief Secretary, Government of Rajasthan
4. The Chief Secretary, Government of Uttar Pradesh

Copy to:

1. The Chairperson and all Members of the Commission for Air Quality Management in NCR and Adjoining Areas

(Arvind Nautiyal)
Member Secretary

COMMISSION FOR AIR QUALITY MANAGEMENT
IN NATIONAL CAPITAL REGION AND ADJOINING AREAS
17th Floor, Jawahar Vyapar Bhawan (STC Building)
Tolstoy Marg, New Delhi-110001

F.No. A-110018/01/2021-CAQM Dated: 27.11.2021

ORDER

The Commission *vide* Direction No. 44 dated 16.11.2021, has *inter alia* directed the following as part of dust control measures:

*".....**NCR States and GNCTD shall ensure:***

(i) To stop construction and demolition activities in NCR till 21st November, 2021 except for the following categories of projects:

(a) Railway services / Railway stations
(b) Metro Rail corporation services, including stations
(c) Airports and Inter State Bus Terminals (ISBTs)
(d) National security/ defence related activities / projects of National importance;

subject to strict compliance of the C&D Waste Management Rules and dust control norms including compliance with the directions of the Commission."

2. The above noted restrictions were in force till 21.11.2021. The Hon'ble Supreme Court *vide* its Order dated 24.11.2021, has *inter alia* directed that:

"...as an interim measure and until further orders, we re-impose the ban on the construction activities in the NCR subject to the following two conditions :-

"(i) Non-polluting activities relating to construction such as the plumbing work, interior decoration, electrical work and carpentry are allowed to be continued;

(ii) The States shall use the funds which have been collected as labour cess for the welfare of constructions workers to provide them subsistence for the period during which construction activities are prohibited and pay wages notified under the Minimum Wages Act for the respective categories of workers."

3. The MoEF&CC vide OM No. Q-18011/65/2020-CPA dated 26.11.2021 has desired for necessary action on priority for improvement of air quality in NCR and Adjoining Areas in pursuance of the above referred Order of the Hon'ble Supreme Court.

4. In the above light, in furtherance of the Directions of the Commission dated 16.11.2021 and in respectful compliance of the Hon'ble Supreme Court's Order dated 24.11.2021, as an interim measure and until further orders, the restrictions as contained in para 4 (i) of the Commission's Directions No. 44 dated 16.11.2021 shall be ensured subject to the following conditions as contained in the Hon'ble Supreme Court's order dated 24.11.2021:

> *"..."(i) Non-polluting activities relating to construction such as the plumbing work, interior decoration, electrical work and carpentry are allowed to be continued;*
>
> *(ii) The States shall use the funds which have been collected as labour cess for the welfare of constructions workers to provide them subsistence for the period during which construction activities are prohibited and pay wages notified under the Minimum Wages Act for the respective categories of workers...."*

(Arvind Nautiyal)
Member Secretary
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To:

1. The Chief Secretary, Government of NCT of Delhi
2. The Chief Secretary, Government of Haryana
3. The Chief Secretary, Government of Rajasthan
4. The Chief Secretary, Government of Uttar Pradesh

Copy to:

1. The Chairperson and all Members of the Commission for Air Quality Management in NCR and Adjoining Areas