

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). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) 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.) PETITIONER-IN-PERSON 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, ADVOCATES)

Date : 03-10-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Ms. Aparajita Singh, Sr. Adv. (Amicus Curiae)
Mr. Siddhartha Chowdhury, Adv. (Amicus Curiae)
Ms. Shibani Ghosh, Adv.
Mr. Aditya Bharat Manubarwala, Adv.

For the parties:

Mrs. Aishwarya Bhati, A.S.G.
Mrs. Archana Pathak Dave, A.S.G.
Ms. Ruchi Kohli, Sr. Adv.
Mr. Raj Bahadur Yadav, AOR
Mrs. Alka Agarwal, Adv.
Ms. Sonali Jain, Adv.
Mr. Ashok Kumar B, Adv.
Ms. Baby Devi Bonia, Adv.
Mr. Anirudh Bhat, Adv.
Mr. Prashant Singh Ii, Adv.
Mr. Gurmeet Singh Makker, AOR
Ms. Suhashinin Sen, Adv.

Mr. P. K. Jain, AOR

Mr. Ramesh Babu M. R., AOR
Mr. Rajesh Kumar Chaurasia, AOR
Applicant-in-person
Petitioner-in-person
Mr. Ajit Pudussery, AOR
Mrs. Bina Gupta, AOR
Mr. Rakesh K. Sharma, AOR
Ms. Sujeeta Srivastava, AOR
Mr. Alok Gupta, AOR
Mr. Anil Kumar Jha, AOR
Mr. Mukesh K. Giri, AOR
Mr. Mandaar Mukesh Giri, Adv.
Mr. Aakash Shankar, Adv.
Mr. L.K. Giri, Adv.
Mr. Kautilya Sharma, Adv.
M/S. Parekh & Co., AOR
Mr. Sudhir Mendiratta, AOR
Mrs. Anil Katiyar, AOR
Mr. Hardeep Singh Anand, AOR
Mr. Sandeep Narain, AOR
Mr. Sushil Kumar Singh, AOR
Mrs. Rani Chhabra, AOR
Mr. G. Prakash, AOR
Ms. Nandini Gidwaney, AOR
Mr. Shri Narain, AOR
Mr. Umesh Kumar Khaitan, AOR
Ms. Shalini Kaul, AOR

Mr. K. R. Sasiprabhu, AOR
Mrs. K. Sarada Devi, AOR
Mr. Sanjay Kumar Visen, AOR
Mrs. Priya Puri, AOR
Ms. Manjula Gupta, AOR
Mr. T. V. Ratnam, AOR
Mr. Balaji Srinivasan, AOR
Mr. Rajiv Ranjan Dwivedi, AOR
M/S. Khaitan & Co., AOR
Mr. S. S. Shroff, AOR
Mr. Sushil Kumar Jain, AOR
Mr. Aniruddha Deshmukh, AOR
Mr. Ravindra Bana, AOR
Mr. Surya Kant, AOR
Mrs. B. Sunita Rao, AOR
Mr. Abhishek, AOR
Mr. Sarvam Ritam Khare, AOR
Mr. R. P. Gupta, AOR
Mr. P. Parmeswaran, AOR
Mr. Mohit D. Ram, AOR
Mr. Pramod Dayal, AOR
Mr. Satya Mitra, AOR
M/S. M. V. Kini & Associates, AOR
Mr. Rakesh Kumar-i, AOR
Mr. Parijat Sinha, AOR

M/S. Saharya & Co., AOR

Mr. Nishe Rajen Shonker, AOR
Mrs. Anu K Joy, Adv.
Mr. Alim Anvar, Adv.
Mr. Ajith Anto Perumbully, Adv.

Mr. Pavan Kumar, AOR

Mr. Sandeep Narain, Adv.
Ms. Kanak Malik, Adv.
For M/S. S. Narain & Co., AOR

Mr. Chirag M. Shroff, AOR
Mr. Dhananjay Kataria, Adv.

Mr. Ejaz Maqbool, AOR

Ms. Menaka Guruswamy, Sr. Adv.
Mr. S. Wasim A Quadri, Sr. Adv.
Mr. Praveen Swarup, AOR
Mr. Utkarsh Pratap, Adv.
Ms. Arunima Das, Adv.
Mr. Devadipta Das, Adv.
Mr. Devesh Maurya, Adv.
Mr. Ravi Kumar, Adv.

Mr. Prashant Kumar, AOR

Mrs. Aishwarya Bhati, A.S.G.
Mrs. Archana Pathak Dave, A.S.G.
Mr. Wasim Quadri, Sr. Adv.
Mrs. Ruchi Kohli, Sr. Adv.
Mr. Mukesh Kumar Maroria, AOR
Mrs. Suhasini Sen, Adv.
Mr. Rajesh Kr. Singh, Adv.
Mr. Subhranshu Padhi, Adv.
Mr. S S Rebello, Adv.

Mr. Mahesh Agarwal, Adv.
Mr. E. C. Agrawala, AOR

Ms. Hemantika Wahi, AOR

Ms. Binu Tamta, AOR

Mr. Radha Shyam Jena, AOR

Mr. Pradeep Kumar Bakshi, AOR

Mr. Ashok Mathur, AOR

Mr. V. K. Verma, AOR

Ms. Pritha Srikumar Iyer, AOR

Mr. Arjun D Singh, Adv.
Ms. Ankita Sharma, AOR

Ms. Surbhi Mehta, AOR

Mr. Shovan Mishra, AOR

Ms. G. Indira, AOR

Mr. Yoginder Handoo, AOR

Ms. Nidhi Jaswal, AOR

Mr. Rakesh Kumar-i, AOR

Mr. Parminder Singh Bhullar, AOR

Mr. Chandrakant Sukumar Sarkar, Adv.
Mr. Mukesh Kumar Singh, Adv.
Mr. C M Dwivedi, Adv.
Mr. Ikshit Singhal, Adv.
Mr. Maneesh Saxena, Adv.
For M/S. Mukesh Kumar Singh And Co., AOR

Mr. Mukesh Verma, Adv.
Mr. Pankaj Kumar Singh, Adv.
Mr. Vatsala Tripathi, Adv.
Mr. Yash Pal Dhingra, AOR

Mr. Ashutosh Dubey, AOR
Mrs. Rajshri Dubey, Adv.
Mr. Abhishek Chauhan, Adv.
Mr. Amit P Shahi, Adv.
Mr. Amit Kumar, Adv.
Mr. H B Dubey, Adv.
Mr. Rahul Sethi, Adv.
Mr. Shashibhushan Nagar, Adv.
Mr. Sumant A Khan, Adv.
Mrs. Sona Khan, Adv.
Mr. Anirban Tripathy, Adv.
Mr. Rajendra Anbhule, Adv.
Mr. Manish Dhingra, Adv.
Mr. Pratham Mehrotra, Adv.

Mr. Anando Mukherjee, AOR
Mr. Chandra Prakash, AOR
Mr. Anuj Bhandari, AOR
Mr. Anil Kumar, AOR
Ms. Lubna Naaz, AOR
Ms. Shashi Kiran, AOR
Ms. Aastha Mehta, Adv.
Ms. Deepanwita Priyanka, AOR
Ms. Prerana Mohapatra, Adv.
Mr. Raghvendra Kumar, AOR
Mr. Pulkit Agarwal, AOR
M/S. Karanjawala & Co., AOR
Mr. V. N. Raghupathy, AOR
Ms. Charu Ambwani, AOR
Ms. Ripul Swati Kumari, Adv.
Ms. Astha Sharma, AOR
Mr. Rajesh Kumar Maurya, Adv.
Mr. Neeraj Shekhar, AOR
Ms. Akansha Sharma, Adv.
Ms. Baby Rajput, Adv.
Mr. Mohit Paul, AOR
Mr. Nischal Kumar Neeraj, AOR
Mr. Shalen Bhardwaj, Adv.
Mr. Ashok Kumar Panigrahi, Adv.
Ms. Lakshmi, Adv.
Ms. Banisha Verma, Adv.
Mr. Nishit Agrawal, AOR
Mr. Yashraj Singh Bundela, AOR
Mr. Chanakya Baruah, Adv.
Ms. Saloni, Adv.
Mr. Rohan Singla, Adv.
Mr. Gaurav, AOR

Mr. Anand Kumar Shrivastava, Adv.
Mr. Ankit Bhandari, Adv.
Ms. Ishita Jain, AOR

Mr. Shuvodeep Roy, AOR
Mr. Deepayan Dutta, Adv.
Mr. Saurabh Tripathi, Adv.

Ms. Divya Jyoti Singh, AOR
Mr. Harsh Rathore, Adv.

Mr. Vinay Garg, AOR

Mr. T. R. B. Sivakumar, AOR

Ms. Manju Jetley, AOR

Mr. Amrish Kumar, AOR

Mr. Harsh V. Surana, AOR

Ms. Rakhi Ray, AOR

Ms. Tulika Mukherjee, AOR

Mr. Akshay Girish Ringe, AOR

Ms. Aswathi M.k., AOR

M/S. M. V. Kini & Associates, AOR

Mr. Pradeep Misra, AOR
Mr. Daleep Dhyani, Adv.
Mr. Suraj Singh, Adv.
Mr. Manoj Kumar Sharma, Adv.

Mr. Manish Kumar, AOR
Mr. Divyansh Mishra, Adv.

Ms. Jyoti Mendiratta, AOR

Mr. Puneet Taneja, AOR

Ms. Vrinda Bhandari, AOR

Ms. Sakshi Kakkar, AOR

Ms. Shagun Matta, AOR

Mr. Gopal Jha, AOR

Mr. Shishir Deshpande, AOR

Mr. D.Kumanan, AOR

Ms. Deepa S, Adv.

Mr. Sheikh F Kalia, Adv.

Mr. Veshal Tyagi, Adv.

Mr. Chinmay Anand Panigrahi, Adv.

Ms. Pritha Srikumar Iyer, AOR

Ms. Rooh-e-hina Dua, AOR

Mr. Mudit Gupta , AOR

Ms. Divya Roy, AOR

Mr. Sandeep Narain, Adv.

Ms. Kanak Malik, Adv.

For M/S. S. Narain & Co., AOR

Mr. Sandeep Kumar Jha, AOR

Mr. Shiv Mangal Sharma, A.A.G.

Ms. Nidhi Jaswal, Adv.

Ms. Shalini Singh, Adv.

Mr. Saurabh Rajpal, Adv.

Ms. Puja Sharma, AOR

Mr. Gautam Narayan, AOR

Ms. Asmita Singh, Adv.

Mr. Tushar Nair, Adv.

Mr. Anirudh Anand, Adv.

Mr. Punishk Handa, Adv.

Mr. Neeraj Kumar Gupta, AOR

Mr. Danish Zubair Khan, AOR

Mr. Vikas Mehta, AOR

Ms. Garima Prashad, Sr. A.A.G.

Mr. Sudeep Kumar, AOR

Ms. Manisha, Adv.

Ms. Rupali, Adv.

Mr. Gurminder Singh, AG Punjab, Sr. Adv.

Mr. Vivek Jain, D.A.G.

Mr. Prashant Manchanda, A.A.G.

Mr. Karan Sharma, AOR

Mr. Shekhar Kumar, AOR

Mr. Rajan Narain, AOR

Mr. Ayush Sharma, AOR

Mr. Anurag Kishore, AOR

Ms. Mayuri Raghuvanshi, AOR

Ms. Purnima Jauhari, AOR
Dr. Brij Bhushan K Jauhari, Adv.
Mr. Deepak Jyoti Ghildiyal, Adv.
Mr. O.p.singh, Adv.
Mr. Satya Vir Singh Rana, Adv.
Mr. Atul Mahan, Adv.

Mr. Hiren Dasan, AOR

Mr. Ajay Vikram Singh, AOR

Mr. K. Paari Vendhan, AOR

Mr. Sameer Abhyankar, AOR
Mr. Aakash Thakur, Adv.
Mr. Rahul Kumar, Adv.
Mr. Aryan Srivastava, Adv.
Ms. Aryan Srivastava, Adv.

Ms. Jaikriti S. Jadeja, AOR

Ms. Astha Tyagi, AOR

Mr. Sunil Fernandes, AOR

Mr. Kuldip Singh, AOR

Ms. Anushree Prashit Kapadia, AOR

Mr. Ketan Paul, AOR

Dr. Ram Sankar, Adv.
Mrs. Harini Ramsankar, Adv.
Mrs. Usha Prabakaran, Adv.
Mr. Maheswaran Prabakaran, Adv.
For M/S. Ram Sankar & Co, AOR

Ms. Malvika Kapila, AOR

Mr. Gaurav Kejriwal, AOR
Mr. Rahul Khurana, AOR
Mr. S. S. Shroff, AOR
Ms. Madhumita Bhattacharjee, AOR
Ms. Debarati Sadhu, Adv.
Ms. Srija Choudhury, Adv.
Mr. Anant, Adv.
Mr. Anas Tanwir, AOR
Mr. Vikrant Singh Bais, AOR
Ms. Diksha Rai, AOR
Mr. Soumya Dutta, AOR
Mr. Sameer Kumar, AOR
Mr. Ajay Pal, AOR
Mr. Dhananjaya Mishra, AOR
Mr. Ravindra Kumar, Sr. Adv.
Mr. Binay Kumar Das, AOR
Mr. Vipin Kumar Saxena, Adv.
Ms. Priyanka Das, Adv.
Ms. Neha Das, Adv.
Mr. Shivam Saxena, Adv.
Mr. Vikas Bharti, Adv.
Mr. Rajiv Yadav, AOR
Mr. Vipin Nair, AOR
Mr. Rishi Matoliya, AOR
Mr. D. Abhinav Rao, AOR
Mr. Durga Dutt, AOR
Mr. Avijit Mani Tripathi, AOR
Mr. T.k. Nayak, Adv.
Ms. Preeti Sehwat, Adv.
Ms. Rashmi Malhotra, AOR

Mr. Gaurav Choudhary, AOR

Mr. Guntur Pramod Kumar, AOR
Ms. Prerna Singh, Adv.
Mr. Keshav Singh, Adv.

Ms. K. Enatoli Sema, AOR
Ms. Limayinla Jamir, Adv.
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmai, Adv.

Ms. Nidhi Mohan Parashar, AOR

Mr. P. Parmeswaran, AOR

Mr. Nirnimesh Dube, AOR

Mr. Ravindra S. Garia, AOR

Mr. Talha Abdul Rahman, AOR

Mr. Prashant Singh, AOR
Mrs. Prerna Dhall, Adv.
Mr. Piyush Yadav, Adv.
Ms. Akanksha Singh, Adv.

Mr. M. P. Devanath, AOR

Ms. Ruchi Kohli, Sr. Adv.
Ms. Srishti Mishra, Adv.
Mr. R. C. Kohli, AOR

Mr. D. Abhinav Rao, AOR

Mr. Prakash Ranjan Nayak, AOR

Mr. Nitin Saluja, AOR

Mr. Deepayan Mandal, AOR

Ms. Shalu Sharma, AOR

Mr. Sahil Tagotra, AOR

Mr. Akhil Anand, AOR

Mr. Sameer Shrivastava, AOR

Mr. Pranav Sachdeva, AOR

Ms. Aishwarya Bhati, A.S.G.
Ms. Archana Pathak Dave, A.S.G.
Ms. Suhasini Sen, Adv.
Mr. Rajesh Kr.singh, Adv.
Mr. Subhranshu Padhi, Adv.
Mr. Gaurang Bhushan, Adv.
Ms. Sweksha, Adv.
Dr. N. Visakamurthy, AOR

Mr. Debojit Borkakati, AOR

Mr. Aakarshan Aditya, AOR

Mr. Satya Mitra, AOR

Mr. Prasanna S., AOR

Ms. Mithu Jain, AOR

Ms. Asha Gopalan Nair, AOR

Mr. Shariq Ahmed, Adv.
For M/S. Ahmadi Law Offices, AOR

Ms. Aishwarya Bhati, A.S.G.
Ms. Archana Pathak Dave, A.S.G.
Ms. Suhashini Sen, Adv.
Mr. Subhranshu Padhi, Adv.
Mr. Gaurang Bhushan, Adv.
Mr. Raghav Sharma, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Bhuvan Kapoor, Adv.
Mr. Rajesh Kumar Singh, Adv.
Mr. Shreekant Neelappa Terdal, AOR
Mr. Varun Chugh, Adv.
Mr. Krishna Kant Dubey, Adv.
Mr. Indira Bhakar, Adv.

Ms. Surabhi Sanchita, AOR

Mr. Vinod Sharma, AOR

Dr. Ram Sankar, Adv.
Mrs. Harini Ramsankar, Adv.
Mrs. Usha Prabakaran, Adv.
Mr. Maheswaran Prabakaran, Adv.
For M/S. Ram Sankar & Co, AOR

Mr. Mahfooz Ahsan Nazki, AOR

Mr. Vinodh Kanna B., AOR

Mr. Sandeep Singh, AOR

Ms. N. Annapoorani, AOR

Mr. S. Gowthaman, AOR

Ms. Neeru Vaid, AOR

Mr. K. V. Mohan, AOR

Mr. Vivek Gupta, AOR

Mr. Vinay Garg, AOR

Ms. G. Indira, AOR

Mr. Sagar Roy, Adv.

Mr. Anki Kashyap, Adv.

Mr. Sunil Kumar, Adv.

Mr. Usman Khan, Adv.

Mr. Prem Chand Kumar, Adv.

Mr. Onkar Singh, Adv.

Mr. Darshan C. Siddarkar, Adv.

Ms. Baby Singh, Adv.

Mr. Vinod Kumar Srivastava, Adv.

Mr. Subhro Sanyal, AOR

Ms. Misha Rohatgi, AOR

Mr. Ravi Prakash, AOR

Mr. Pukhrambam Ramesh Kumar, AOR

Mr. Karun Sharma, Adv.

Ms. Anupama Ngangom, Adv.

Ms. Rajkumari Divyasana, Adv.

Mr. R. Rajaselvan, Adv.

Mr. Vikrant Singh Bais, AOR

Mr. Alok Gupta, AOR

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

1. We have perused the detailed compliance report filed by the Commission for Air Quality Management (for short, "the Commission").

2. Our attention is invited to exercise of powers under Section 12 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 (for short, "the Act"). The first effective direction was issued by the Commission on 10th June, 2021 which deals with various issues concerning the problem of stubble burning. It provides for setting up machinery at various levels. For example, clause (14) deals with effective monitoring/enforcement. Clause (14) contains very exhaustive provisions. Neither the State of Haryana nor the State of Punjab have placed on record any document showing the efforts made to comply with binding directions issued by the Commission. There is one more direction issued on 12th April, 2024. We find from the compliance affidavit filed by the Commission that no effort is made by the Commission to secure implementation of its own directions.

3. There is a Sub-Committee on Safeguarding and Enforcement. The last meeting of the Sub-Committee was held on 29th August, 2024 in which there is not even a discussion about implementation of the order dated 10th June, 2021. Though there is a specific direction in

the said order to prosecute the wrong-doers under Section 15 of the Environment (Protection) Act, 1986, not a single prosecution has been launched. Notwithstanding the availability of the machines, the same are not being used.

4. There is an issue about the qualification of the expert members of the Commission which is addressed by Mr. Gopal Sankarnarayanan, the learned senior counsel by tendering a chart on record. If there are no true experts in the field of air pollution, this Court will have to exercise powers under Article 142 of the Constitution of India to include some experts in the field. Two posts of NGO Members are still kept vacant.

5. Notwithstanding the long affidavit filed by the Commission, we may note that in the meeting of the Sub-Committee on Safeguarding and Enforcement held on 29th August, 2024, only five out of 11 members were present, apart from the fact that the Committee did not discuss the implementation of the direction dated 10th June, 2021. This is how the Sub-Committees are functioning. The three Sub-Committees have held total 11 meetings in 9 months.

6. As regards the non-utilization of machines provided under the grant of the Central Government, the learned Advocate General appearing for the State of Punjab submits that those farmers who are holding lands having area of less than 10 hectares cannot afford to engage a

tractor with driver and spend money on diesel for using these machines. Therefore, a proposal was submitted for grant of funds to the Central Government so that tractor with driver and diesel could be provided to the small farmers. However, nothing is placed on record to show that any grant was sought for providing tractors with driver and diesel to the small farmers to enable them to operate the machines.

7. We may note here that even during last 15 days from 15th to 30th September, 2024, there were large number of incidents of illegal stubble burning. 129 were in Punjab and 81 were in Haryana. In some of the districts in Punjab and Haryana, the incidents of stubble burning have increased substantially as compared to 2023. However, all that the States have done is to recover nominal compensation from 42 and 45 farmers respectively.

8. As stated earlier, the Commission itself *prima facie*, does not seem to be making any efforts to follow up implementation of its own directions. Obviously, no steps are being taken by the Commission to monitor implementation of its own orders.

9. We, therefore, direct the State Governments of Punjab and Haryana to file the affidavits disclosing implementation made by them of the directions issued by the Commission and, in particular, directions dated 10th June, 2021 read with 12th April, 2024. The affidavits shall be filed within a period of ten days from today

which shall be considered on 16th October, 2024.

10. The State of Punjab will also place on record a proposal submitted earlier or a proposal submitted hereafter to the Central Government for release of funds. On 16th October, 2024, the Central Government and the Commission will have to make a statement about the expertise of three full time independent technical members appointed under Section 3(2)(e) of the Act. Similarly, the Central Government will have to explain why the post of two NGO members are kept vacant. Thirdly, the Central Government will have to satisfy us that the Chairperson has requisite qualifications as provided in Section 3(2)(a) of the Act.

11. We are putting all parties to notice that if we find that true experts in the field of air pollution are not part of the Commission, we may exercise our extra-ordinary jurisdiction under Article 142 of the Constitution of India to appoint some experts in the field as additional members.

12. The affidavits of compliances shall be filed within ten days from today.

13. We also direct the Commission to ensure that prompt steps are taken to implement its own orders by the State Governments and all other stakeholders.

14. The Commission shall give wide publicity by all methods, including publicity on social media to the availability of the Grievance Redressal Mechanism on which the citizens can file complaints.

15. List on 16th October, 2024.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER