

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION(S)(CIVIL) NO(S). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([TO BE TAKEN UP AT 3:30 P.M.]----- IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) (AIR POLLUTION) AND MODIFICATION OF APPLICABILITY OF GRAP IV 1) I.A. Nos. 270761 AND 270763/2024 (APPLICATIONS FOR DIRECTION AND INTERVENTION) 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. SAURABH AGRAWAL ADVOCATES)

Date : 05-12-2024 This matter was called on for hearing today.

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HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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Mr. Aditya N. Prasad, Adv./Court Commissioner
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UPON hearing the counsel the Court made the following
O R D E R

IN RE: SUBSISTENCE ALLOWANCE

1. Firstly, we deal with the issue of payment requisite amount for subsistence to construction workers. The Chief Secretary of the Delhi Government is present through video conference. He states that a sum of Rs.2,000/- (Rupees Two Thousand) each has been

paid 90,693 workers who have been registered on the portal and remaining amount of Rs.6,000/- (Rupees Six Thousand) will be paid immediately. However, the Delhi Government has made no efforts to inform other eligible construction workers that they will be entitled to receive subsistence amount if they register themselves on the portal. Perhaps, from what the Chief Secretary said before us, it appears to us that the Delhi Government was not aware that there may be much more workers than 90,693 registered on the portal. We direct the Delhi Government to immediately convene a meeting of all the unions of the construction workers and appeal to them to instruct the eligible workers to register themselves on the portal.

2. As far as the State of Rajasthan is concerned, two districts have been affected. There are 3,526 identified workers, out of which, only 2,063 have been paid the amount. However, the learned counsel appearing for the State is not clear about how much amount has been paid to each worker. These details must be placed on record before the next date. Apart from making complete payment to the identified workers, the directions which are issued in the case of Delhi Government will also apply to the Government of Rajasthan.

3. As far as the State of Haryana is concerned, total 14 districts have been affected. There are 2,57,000 registered workers on the portal, out of which 1,06,000, who applied for help, have been paid the amount at the rate of Rs.423.14 per day. The directions which are issued to the Delhi Government will also apply

to the State of Haryana, which will ensure that those who have not registered themselves, will also register themselves so that they can get the benefit of subsistence amount.

4. As far as the State of Uttar Pradesh is concerned, 08 districts have been affected and as of today, 4,88,246 workers are registered on the portal. Unfortunately, only 8,000 have been paid till yesterday. Even the Government of Uttar Pradesh could not specify how much amount is being paid to each worker. Apart from taking steps which we have directed in the case of Delhi Government, we direct the Government of Uttar Pradesh to ensure that all the eligible workers are paid the money immediately.

5. As regards the payment of compensation by way of subsistence allowance, the concerned Governments will file further affidavits on or before the next date. The personal presence of the Chief Secretaries of the NCR States is dispensed with.

IN RE: GRADED RESPONSE ACTION PLAN MEASURES

6. Now we deal with the question of the measures under the Graded Response Action Plan (for short, "the GRAP").

7. Ms. Aishwarya Bhati, learned ASG, has tendered across the Bar a brief note prepared by the Commission. The note indicates that the average AQI levels from 30th November till 4th December, 2024 were 346, 285, 280, 268 and 178 respectively. Therefore, her submission is that now even Stage-I of the GRAP will not apply. Her further submission is that in view of the improvement in the

situation, the applicability of the GRAP measures be left to the Commission.

8. We have perused the figures of AQI from 18th November, 2024 till 4th December, 2024. Upto 30th November, 2024, the AQI levels were consistently above 300 and it is only during the last four days that the AQI levels have come down below 300. It is true that at some stage, the Court will have to leave it to the Commission to decide about the applicability of Stages under the GRAP.

9. Considering the data placed before us which we have referred above, we do not think that it will be appropriate, at this stage, to allow the Commission to go below Stage-II of the GRAP. Perhaps, further monitoring on the part of this Court is necessary. Though we permit the Commission to go down to Stage-II for the present, it will be appropriate if the Commission considers of incorporating certain additional measures which are part of Stage-III of the GRAP. While we permit the Commission to do so, we must record here that if the Commission finds that the AQI goes above 350, as a precautionary measure, Stage-III measures will have to be immediately implemented. If the AQI crosses 400 on a given day, Stage-IV measures will have to be reintroduced.

10. Further directions on this aspect will be issued on 12th December, 2024 at 3:30 p.m.

11. Considering the scope of this Petition, we are of the view that Ms. Aparajita Singh, learned Senior Advocate appointed as

Amicus Curiae, is overburdened. Therefore, we leave it her to give her suggestions so that we can appoint few other members of the Bar as Amicus Curiae. Ms. Aparajita Singh, learned Amicus Curiae, is free to give her suggestions by sending an email so that appropriate orders can be passed.

12. We make it clear that the appointment of the Court Commissioners will continue so long as the GRAP measures are in force and they are free to submit their reports to this Court in terms of the earlier orders. The orders passed by this Court earlier regarding giving protection to the Court Commissioners will continue to operate.

13. We direct the Delhi Government to pay the remuneration to the Court Commissioners which is payable to the Panel 'B' counsel fixed by the Union of India. The Delhi Government to take action immediately.

14. We are informed that while issuing show-cause notices to those who violated the GRAP norms, the Delhi Pollution Control Committee has named the Court Commissioners appointed by this Court in the notices. None of the authorities who are taking action for violation of the GRAP norms shall incorporate the names of the Court Commissioners hereafter.

15. Shri Balram Singh, Station House Officer of Police Station Baba Haridas Nagar, New Delhi is present in the Court who has tendered an affidavit. The copies thereof be supplied to the

concerned Court Commissioners, who can submit their response on the next date. For the time being, the personal presence of Shri Balram Singh is dispensed with.

(ASHISH KONDLE)
COURT MASTER (SH)

(ANU BHALLA)
COURT MASTER (NSH)