

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 : 16-10-2024 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

Mr. A.D.N.Rao, Sr. Adv. (Amicus Curiae)
Ms. Aparajita Singh, Sr. Adv (Amicus Curiae)
Mr. Siddharth Chaudhary, Adv. (Amicus Curiae)
Ms. Shibani Ghosh, Adv.

For the parties:

Ms. 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. Gurmeet Singh Makker, AOR
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.
Mr. Vineet Singh, Adv.
Mr. Gurmeet Singh Makker, AOR
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. Gaurang Bhushan, Adv.
Ms. Sweksha, Adv.
Dr. N. Visakamurthy, AOR

Mr. Lokesh Sinhal, Sr. AAG
Mr. B.K. Satija, AAG
Mr. Rahul Khurana, Adv.
Mr. Akshay Amritanshu, AOR
Mr. Samyak Jain, Adv.
Ms. Pragya Upadhyay, Adv.
Ms. Drishti Saraf, Adv.

Mr. Gurminder Singh, AG, Punjab/Sr. Adv.
Mr. Prashant Manchanda, A.A.G.
Mr. Vivek Jain, D.A.G.
Mr. Karan Sharma, AOR
Ms. Savi Nagpal, Adv.

Mr. H.S. Phoolka, Sr. Adv.
Mr. Niraj Gupta, AOR
Mr. Avani Chaudhary, Adv.
Ms. Anshu Gupta, Adv.
Mr. Mukesh Kumar Jain, Adv.
Ms. Prabhsahay Kaur, Adv.

Ms. Sanjivani Aggarwal, Adv.
Ms. Jyoti Aggarwal, Adv.
Mr. Pradeep Shekhawat, Adv.

Mr. P. K. Jain, AOR

Mr. Ramesh Babu M. R., AOR

Mr. Rajesh Kumar Chaurasia, AOR

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
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. Mandaar Mukesh Giri, Adv.
Mr. Mukesh K. Giri, AOR
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. Ejaz Maqbool, AOR

Mr. S. Wasim A Quadri, Sr. Adv.
Mr. Praveen Swarup, AOR
Mr. Utkarsh Pratap, Adv.
Mr. Devesh Maurya, Adv.
Mr. Ravi Kumar, Adv.
Mr. Sukhamrit Singh, Adv.

Mr. Prashant Kumar, AOR

Ms. Pritha Srikumar Iyer, AOR

Ms. Surabhi Sanchita, AOR

Mr. Vinod Sharma, AOR

M/S. Ram Sankar & Co, AOR

Mr. Mahfooz Ahsan Nazki, AOR

Mr. Vinodh Kanna B., AOR

Mr. Sandeep Singh, AOR

Mr. Anand Prakash Yadav, Adv.
Ms. N. Annapoorani, AOR

Mr. S. Gowthaman, AOR

Ms. Neeru Vaid, AOR

Mr. Vivek Gupta, AOR

Mr. Vinay Garg, AOR

Ms. G. Indira, AOR

Mr. Sagar Roy, Adv.

Mr. Premchand Kumar, Adv.

Mr. Vinod Kumar Srivastava, Adv.

Mr. Venkatesh Rajput, Adv.

Mr. Onkar Singh, Adv.

Mr. Anki Kashyap, Adv.

Mr. Subhro Sanyal, AOR

Ms. Misha Rohatgi, AOR

Mr. Ravi Prakash, AOR

Mr. Pukhrambam Ramesh Kumar, AOR

Mr. Karun Sharma, Adv.

Ms. Rajkumari Divyasana, Adv.

Mr. Vikrant Singh Bais, AOR

Mr. Alok Gupta, AOR

Mr. K. V. Mohan, AOR

Ms. Surbhi Mehta, AOR

Mr. Shovan Mishra, AOR

Ms. Bipasa Tripathy, Adv.

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.

For M/S. Mukesh Kumar Singh And Co., AOR

Mr. Arjun D Singh, Adv.

Ms. Ankita Sharma, AOR

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

Mr. Ashutosh Dubey, 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. Anando Mukherjee, 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. Neeraj Shekhar, AOR

Mr. Mohit Paul, AOR

Mr. Nischal Kumar Neeraj, AOR
Mr. Ashok Kumar Panigrahi, Adv.
Mr. Shalen Bhardwaj, Adv.
Ms. Ekta Kalra, Adv.
Mr. Badal Dayal, Adv.
Ms. Lakshmi, Adv.

Mr. Nishit Agrawal, AOR

Mr. Gaurav, AOR
Mr. Gaurav Srivastava, Adv.

Mr. Yashraj Singh Bundela, AOR
Mr. Chanakya Baruah, Adv.
Ms. Saloni, Adv.
Mr. Rohan Singla, Adv.

Mr. Pulkit Agarwal, AOR

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

Ms. Divya Jyoti Singh, AOR

Mr. Vinay Garg, AOR

Mr. T. R. B. Sivakumar, AOR

Mr. Praveen Pathak, Adv.
Mr. Avadhesh Kumar Dubey, Adv.
Ms. Akanksha Singh, Adv.
Ms. Shraddha Khandhadia, Adv.
Ms. Manju Jetley, AOR

Mr. Amrish Kumar, AOR

Mr. Harsh V. Surana, AOR

Ms. Rakhi Ray, AOR

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

Ms. Tulika Mukherjee, AOR

Mr. Akshay Girish Ringe, AOR

Mr. L.K. Paonam, Adv.
Mr. Niraj B. Paonam, Adv.
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. Manish Kumar, AOR
Mr. Divyansh Mishra, Adv.

Ms. Jyoti Mendiratta, AOR
Ms. Ananya Basudha, Adv.

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. Shiv Mangal Sharma, A.A.G.

Ms. Nidhi Jaswal, Adv.

Ms. Shalini Singh, Adv.

Mr. Saurabh Rajpal, Adv.

Mr. Sandeep Kumar Jha, AOR

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. Rupali, Adv.

Mr. Shekhar Kumar, AOR

Mr. Rajan Narain, AOR

Mr. Ayush Sharma, AOR

Mr. Anurag Kishore, AOR

Ms. Mayuri Raghuvanshi, AOR

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

Mr. Hiren Dasan, AOR

Mr. Ajay Vikram Singh, AOR

Mr. K. Paari Vendhan, AOR

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

M/S. Ram Sankar & Co, AOR

Ms. Malvika Kapila, AOR

Ms. Madhumita Bhattacharjee, AOR
Ms. Debarati Sadhu, Adv.
Ms. Srija Choudhury, Adv.
Mr. Anant, Adv.

Mr. Sameer Abhyankar, AOR
Mr. Rahul Kumar, Adv.
Mr. Aryan Srivastava, Adv.
Mr. Aakash Thakur, Adv.
Ms. Ayushi Bansal, Adv.
Mr. Sarthak Dora, Adv.

Mr. Gaurav Kejriwal, AOR

Mr. S. S. Shroff, AOR

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. Rahul Khurana, AOR

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 Sehrawat, Adv.

Ms. Rashmi Malhotra, AOR

Mr. Ravindra Kumar, Sr. Adv.
Mr. Binay Kumar Das, AOR
Ms. Priyanka Das, Adv.
Ms. Neha Das, Adv.
Mr. Shivam Saxena, Adv.
Mr. Vikas Bharti, Adv.

Mr. Gaurav Choudhary, AOR

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. Shashank Singh, Adv.

Mr. Talha Abdul Rahman, AOR

Mr. Guntur Pramod Kumar, AOR

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

Mr. Pranav Sachdeva, AOR

Mr. Sameer Shrivastava, 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

M/S. Ahmadi Law Offices, AOR

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

IN RE: STATE OF HARYANA

1. We have perused the affidavit of Shri T.V.S.N.Prasad, IAS, Chief Secretary to the Government of Haryana.

2. We had expected the Government of Haryana to file an affidavit reporting compliance with the directions issued on 10th June, 2021 by the Commission for Air Quality Management (for short, 'the Commission'). However, we find that the affidavit is of non-compliance. Penal action as contemplated by clause 14 of the direction issued on 10th June, 2021 has not been taken, even in a single case. Though even going by the said affidavit, there were as many as 191 cases of fire till 12th October, 2024, only nominal fine has been recovered. Even the machinery, as contemplated by paragraph 14 of the said order, has not been set up. The order of the Commission is in force for the last more than 3 years.

3. We direct the concerned authorities to take appropriate coercive action against the officials of the State responsible for non-compliance of the order dated 10th June, 2021 by invoking Section 14 of the Commission of Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 (for short, "the Act").

4. We direct the Chief Secretary Shri T.V.S.N.Prasad to personally remain present in the Court on Wednesday i.e. 23rd October, 2024.

5. The Chief Secretary owes an explanation to the Court not only for non-compliance but also for not initiating stringent action against the violators and stringent action against the government officials for not complying with the directions issued on 10th June, 2021 by the Commission.

6. The Commission will make a statement about the coercive action initiated against the officials of the State in terms of this order on the next date.

IN RE: STATE OF PUNJAB

7. We have perused the affidavit filed by Mr. Priyank Bharti, Secretary to the Government of Punjab, Department of Science, Technology and Environment.

8. As in the case of the State of Haryana, it is an affidavit reporting non-compliance with the directions issued on 10th June, 2021 by the Commission. There is non-compliance of directions issued in paragraph 14 of the order dated 10th June, 2021 passed by the Commission. The Committees/authorities as contemplated by clause (e) have not been constituted. Moreover, there is no prosecution of a single person under Section 15 of the Environment (Protection) Act, 1986, though the affidavit itself accepts that there have been contraventions. In paragraph 34 of the affidavit, it is stated that fire incidents reported as per ISRO protocol were 267. It is claimed that action was taken all against 267. However, nominal fine has been recovered only from 103. First Information Reports have been filed under Section 233 of the Bharatiya Nyaya Sanhita, 2023 only against 14 violators. Complaints under Section 39 of the Air (Prevention and Control of Pollution) Act, 1981 have been filed only against 5 persons. Thus, going by their own data, out of 267 violators, nominal action has been taken only against 122 violators.

9. In the affidavit filed by the State Government, reliance has been placed on the order dated 22nd October, 2013 issued by the Government of Punjab in exercise of powers under Section 19(5) of the Air (Prevention and Control of Pollution) Act, 1981 thereby prohibiting indiscriminate burning of left over paddy/wheat straw in

the whole of the State. Non-compliance of this order attracts penal provisions. As stated earlier, prosecution under this statute has been initiated only against 5, out of 267 violators.

10. Paragraph 6 of our last order dated 3rd October, 2024 reads thus:

"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."

11. On a query made by us, the learned Advocate General fairly states that a specific proposal for grant of funds to the Central Government for providing a tractor with driver and diesel to small farmers has not been submitted. Therefore, the statement made across the Bar which is recorded in paragraph 6, as mentioned above, is completely incorrect. We are surprised to note that even after finding that the statement made was incorrect,

between the last date and today, no endeavour has been made to submit a proposal to the Central Government for seeking funds for the aforesaid reasons.

12. The order of the Commission is more than 3 years old. The problem which creates air pollution exists for decades. But still the States are struggling to find a solution, notwithstanding available statutory framework.

13. We direct the Chief Secretary of the State of Punjab to personally remain present in the Court on the next date i.e. 23rd October, 2024. On behalf of the State, he must explain the defaults made by the State.

14. We direct the Commission or appropriate authority to take suitable action against the officials of the State of Punjab of non-compliance with the directions issued under Section 12 of the Act. Central Government will submit a compliance report on the next date i.e. 23rd October, 2024.

IN RE: UNION OF INDIA

15. We have perused the Minutes of the Meeting held on 8th October, 2024 of the Sub-Committee on Safeguarding and Enforcement.

16. A list of attendees shows that out of 16 members, 8 members were absent. However, the learned Advocate General of State of Punjab pointed out that the Secretary, Department of Science, Technology and Environment, Government of Punjab was present but he is

shown in the category of 'Others Present in Virtual Mode' in his capacity as the Secretary has been described as Secretary, Public Work Department. We accept the said statement of the learned Advocate General. But still, the fact remains that notwithstanding the observations made in our last order, 7 members of the Committee which is assigned a very important role were not present in the meeting. Perhaps, an action will have to be taken of replacing those members who are persistently remaining absent.

17. The Commission must also explain to us whether in the meetings of the Commission, eminent experts in the field or representatives of expert organizations are invited to remain present. The response shall be submitted by the next date i.e. 23rd October, 2024.

IA No.235980 of 2024 - FOR INTERVENTION

18. Issue notice.

19. For the time being, we direct the Commission, the State of Punjab as well as the State of Haryana to consider prayer clauses (2) and (4) of the application and to respond within a period of three weeks from today.

IA No.236055/2024 - INTERVENTION/IMPLEADMENT
IA No.231348/2024 - APPROPRIATE ORDERS/DIRECTIONS
IA No.16223/2021 - CONDONATION OF DELAY IN FILING
IA No.16230/2021 - CONDONATION OF DELAY IN
REFILING/CURING THE DEFECTS
IA No.16235/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No.16236/2021 - PERMISSION TO APPEAR AND ARGUE
IN PERSON

20. List on 23rd October, 2024.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER