

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)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) (AIR POLLUTION) AND IMPLEMENTATION OF GRAP IV 1) I.A. NO. 269389/2024 (APPLICATION FOR INTERVENTION) 2) 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. YASH S VIJAY, MR. SAURABH AGRAWAL ADVOCATES)

Date : 25-11-2024 This petition was called on for hearing today.

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HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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

1. A joint report dated 25th November, 2024 submitted by Shri Aditya N. Prasad, learned Advocate, the Coordinator of the Court Commissioners, is taken on record. At the outset, we must compliment the 13 members of the Bar who are appointed as Court Commissioners for the excellent work done by them. Their appointment as Court Commissioners will continue and they will continue their visits to various entry points and keep on

submitting the reports to the Court.

2. It is apparent that the Authorities, which are mentioned against clauses 1, 2 and 3 of Stage IV of the Graded Response Action Plan (for short, "the GRAP"), have made no earnest effort to implement the action in terms of clauses 1, 2 and 3. There is inaction on their part. Some Police teams were deputed only at a few entry points, and that also without any specific instructions. Most of them were clueless. In fact, the report of the Court Commissioners indicates that at most of the entry points in Delhi State, the Police were deputed only after the order of this Court of 22nd November 2024. There is a serious lapse on the part of the Authorities mentioned against clauses 1, 2 and 3. We, therefore, direct the Commission for Air Quality Management (for short, "the Commission") to immediately initiate action in terms of Section 14 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 (for short, "the Act") against the defaulting officers/entities.

3. Now, the question is whether Stage IV norms need relaxation. Unless the Court is satisfied that there is a consistent downward trend of AQI, we cannot permit the Commission to go down to Stage III or Stage II of the GRAP, as the case may be.

4. As we are continuing the Stage IV norms, pending further orders, we direct all the NCR States to use the funds which have been collected as labour cess for the welfare of the construction workers by providing them weekly subsistence allowance for the

period during which the construction activities are prohibited. In substance, all the NCR States will comply with the directions issued by this Court in terms of clause (ii) of the order dated 24th November 2021 relating to payment of the requisite amount by way of subsistence allowance. The action shall be taken immediately by the State Governments.

5. It is obvious that due to the implementation of Stage IV measures, several sections of society may have been adversely affected. The Commission has all the powers under Section 12(1) of the Act to issue directions to various Authorities to take several measures to ensure that the persons in the category of labourers, daily wagers, economically weaker sections, etc., do not suffer. We, therefore, direct the Commission to immediately consider the issue of taking mitigating measures by issuing necessary directions in the exercise of the powers in Section 12 of the Act.

6. A chart has been tendered across the Bar by Ms Aishwarya Bhati, learned ASG, which shows that AQI in Delhi (not the entire region) from 20th November 2024 to 24th November 2024 ranges between 318 and 419. We direct the Commission to place updated data on the next date so that the Court can take a call on the continuation of Stage IV measures of the GRAP.

7. In the meanwhile, we direct the Commission to consider the grant of relaxation of actions in terms of clauses 5 and 8 of Stage IV measures (only in relation to educational institutions) as well as clause 11 of Stage III measures. The Commission may consider of

grant of exemptions to certain classes from the aforesaid actions/measures. The Commission will have to consider the grant of relaxation/exemption as regards the actions under the aforesaid three clauses for various reasons, including the following:

(i) A large number of students are being deprived of the facility of Mid Day Meals as the schools and *anganwadis* are closed;

(ii) A large number of students do not have the facilities to take benefit of online education. Many educational institutions do not have facilities to provide online education; and

(iii) The residences of many students do not have air purifiers, and therefore, there may not be any difference between the children sitting at home and the children attending school.

An appropriate decision shall be taken by the Commission on the above aspects immediately, even if a copy of this order is not available. The learned ASG appearing for the Commission to communicate this order to the Commission. We also leave it to the Commission to decide on the continuation of the ban on conducting physical classes of X and XII standards on the same grounds.

8. Various options can be considered by the Commission. One can be of granting relaxation to those schools and educational institutions which do not have the facility of online education, and the other can be of granting relaxation to those students who do not have the facilities of attending online education at their

respective homes. We make it clear that we are leaving it to the Commission to decide to what extent, if any, the measures relating to education which are otherwise applicable in Stages III and IV of the GRAP can be either relaxed or exceptions can be carved out. We expect that a decision shall be taken by the Commission during the course of the day or, at the latest, by tomorrow morning so that it can be implemented. We make it clear that all other actions provided in stage IV shall be scrupulously implemented. The Court Commissioners are free to bring to the notice of the Court violations of the actions under the GRAP.

9. The Commission will look into the suggestions made by the Court Commissioners, especially against Item No.7 in paragraph 2 of their report.

10. For issuing further directions, list the Petition on 28th November 2024 at 3:30 p.m.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)