

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.

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HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
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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