

Item Nos. 01 to 04

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 249/2020

Tribunal on its own Motion Applicant(s)
Versus

Ministry of Environment, Forest
& Climate Change & Ors. Respondent(s)

WITH

Original Application No. 254/2020

Shobhit Shukla Applicant(s)
Versus

Govt. of NCT of Delhi Respondent(s)

WITH

Original Application No. 255/2020

Chirag Jain Applicant(s)
Versus

Govt. of NCT of Delhi Respondent(s)

WITH

Original Application No. 93/2020(CZ)

Dr. P. G. Najpande & Anr. Applicant(s)
Versus

State of M. P. & Ors. Respondent(s)

Date of hearing: 01.12.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicants: Mr. Raj Panjwani, Senior Advocate with Ms. Shibani Ghosh, Advocate
(Amicus Curiae)
Mr. Shobhit Shukla Applicant in Person in OA 254/2020
Mr. Chirag Jain Applicant in Person in OA 255/2020
Mr. Prabhat Yadav, Advocate for Applicant in OA 93/2020 (CZ)

Respondents: Mr. Balendu Shekhar, Advocate for MoEF & CC
Mr. Raj Kumar, Advocate for CPCB
Ms. Jyoti Mendiratta, Advocate for GNCTD
Mr. Pradeep Misra, Advocate & Mr. Daleep Dhyani, Advocate for

29. The Tribunal, vide order dated 21.08.2020, directed that the work at remaining monitoring stations be completed within six months, which may commence within one month and monitored by the CPCB.

30. The fact remains that there are 740 Districts in the country and above 4000 cities. It is absolutely necessary that at least at every District Headquarter in all the 740 Districts, there should be an air quality monitoring station. Wherever such stations have not yet been set up so far (though Air Act is 39 years old), manual stations, which are very easy to set up and are not costly, must be installed at the earliest using simpler procedure like GeM. This step should not exceed three months in any case. This will be the responsibility of the State PCBs/PCCs, using funds available under 'consent mechanism' / 'environmental compensation'. As per data furnished by the CPCB in its report dated 14.11.2019, it was mentioned that as against requirement of CAAQMS being 800, only 176 had been installed and as against required manual stations being 1250, only 658 had been installed. The gap was directed to be filled up by the Tribunal till 20.11.2020 which was extended vide order dated 21.08.2020 for six months, which will now expire on 21.02.2021.

31. Since Pandemic is still continuing and is aggravated by the addition of pollution by fire crackers, having potential of damage to public health, invoking precautionary principle under section 15 and 20 of the NGT Act, 2010, we are satisfied that there is need to continue directions for prohibition and regulation of use of fire crackers during pandemic Covid-19, depending upon air quality with further direction to take coercive measures for non-compliance, including recovery of compensation and for redressal of claims of victims of such pollution and restoration of environment.

Directions

32. In view of above discussion, following directions are issued:
- i. There will be total ban on sale and use of all kinds of fire crackers during Covid-19 pandemic in the NCR and all cities/towns in the country **where the ambient air quality falls under the 'poor' and above category.**
 - ii. Direction to restrict use of fire crackers in cities/towns where air quality is 'moderate' or below to green crackers only and for duration of not more than two hours and only for celebration of any specified festivals or permitted occasions will continue. Such festivals be specified by the States. Other than specified festivals, prior permission of the District Magistrate of the area will be required for use of crackers for limited period which will be given having regard to air quality.
 - iii. During Christmas and New Year, green crackers can be used from 11:55 pm to 12:30 am only at places where air quality is 'moderate' or below as directed by the Hon'ble Supreme Court¹⁸.
 - iv. With a view to ensure availability of air quality data, atleast one air quality monitoring station must be set up at every district headquarter at the earliest. Where no such monitoring station exists, atleast a manual monitoring station which is very easy to set up and is not costly must be installed at the earliest, using simpler procedure like GeM. This should not exceed three months in any case. This will be the responsibility of the State PCBs/PCCs from

¹⁸ (2019) 13 SCC 523 para 48.14

available funds under 'consent mechanism' / 'environmental compensation'. The air quality data may be placed on the website of the District administration and also at prominent locations in the towns, in the form of AQI, PM_{2.5} and PM₁₀.

- v. We further direct that the Air Quality Monitoring Committees (AQMC) in terms of order of this Tribunal dated 08.10.2018 in OA No. 681/2018¹⁹ to coordinate with the District Magistrates.²⁰ for compliance of the above directions.
- vi. The District Magistrates in every district may take steps to ensure that banned fire crackers are not sold in terms of order of the Hon'ble Supreme Court dated 23.10.2018.²¹
- vii. The District Magistrate, on a complaint or otherwise, will recover compensation from violators of the above directions on the parameters already mentioned in Para 24 above.
- viii. Any victim of pollution, apart from other remedies, can approach the District Magistrate for compensation, by showing evidence of individual damage and the person responsible for the damage. Such claim may be dealt with by a reasoned order.

¹⁹ The said order is as follows:

"15. xxx

xxx

xxx

i. xxx

xxx

xxx

ii. The Action Plans may be prepared by six-member committee comprising of **Directors of Environment, Transport, Industries, Urban Development, Agriculture and Member Secretary, State Pollution Control Board or Committee of the concerned State**. The Committee may be called Air Quality Monitoring Committee (AQMC). The AQMC will function under the overall supervision and coordination of Principal Secretary, Environment of the concerned State/Union Territory. This may be further supervised by the Chief Secretaries concerned or their counterparts in Union Territories by ensuring intra-sectoral co-ordination."

²⁰ The District Environment Committee has been directed to be constituted by this Tribunal to prepare and execute District Environment Plan vide order dated 15.07.2019 in OA No. 710/2017, Shailesh Singh vs. Sheela Hospital & Trauma Centre, Shahjanhanpur & Ors.

²¹ Order dated 23.10.2018 (2019) 13 SCC 523