

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO. 432 OF 2016

IN

WRIT PETITION (C) No. 13029 of 1985

IN THE MATTER OF:

M.C. Mehta

...Petitioner

-Versus-

Union of India & Ors

...Respondents

AN APPLICATION FOR GRANT OF RE-COMPOSITION, REJUVENATION AND MODIFICATION OF THE MANDATE FOR THE ENVIRONMENT POLLUTION (PREVENTION AND CONTROL) AUTHORITY (EPCA) FOR NATIONAL CAPITAL REGION

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS LORDSHIP'S COMPANION JUSTICE OF THE SUPREME COURT OF INDIA NEW DELHI.

THE HUMBLE APPLICATION OF THE RESPONDENT ABOVEMANED.

MOST RESPECTFULLY SHOWETH:

1. That in pursuance of this Hon'ble Court's directions issued vide its order dated 7th January, 1998 in Writ Petition 13029/85, the Environment Pollution (Prevention and Control) Authority (hereinafter called 'EPCA') for the National Capital Region was constituted under sub-section (1) and (3) of Section 3 of the Environment (Protection) Act, 1986 by Ministry of Environment, Forest and Climate Change (hereinafter called 'MoEF & CC') on 29.01.1998

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for a period of 2 years with a mandate and the composition of persons namely (i) Shri Bhure Lal, Secretary, CVC, New Dehi - Chairman, (ii) Smt. Kiran Dhingra, Transport Commissioner, Delhi- Member, (iii) Shri Anil Aggarwal, Director, CSE, New Delhi- Member, (iv) Shri Jagdish Khattar, Executive Director, MUL- Member and (v) Shri Dilip Biswas, Chairman, CPCB- Convener vide Notification No. S.O. 93 (E) dated 29th January 1998 which is annexed at **Annexure-A-1** to the instant Application.

This authority was constituted with the sole objective of assisting this Hon'ble Court for protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution in the NCR.

The present composition of the EPCA is as given below:

- (i) Shri Bhure Lal, Chairman (Retd. IAS) (Ex. Member Union Public Service Commission UPSC)
- (ii) Ms Sunita Narain, Member,
(Director, Centre for Science & Environment)
- (iii) Ms. Kiran Dhingra, Member, (Retd. IAS),
(Ex. Transport Commissioner Delhi)

- (iv) Shri Jagdish Khattar, Member, (Former Managing Director, Maruti Udyog Limited)
- (v) Shri N. R. Raje, Member, (Former Director IOC (R & D))
- (vi) Principal Secretary-cum-Commissioner, Transport, Department of Transport, Govt. of NCTD
- (vii) Dr. P. C. Chobey, Member, Former Professor, AIIMS
- (viii) Chairman, CPCB, Convener, Central Pollution Control Board

Presently, EPCA is assisting this Hon'ble Court in various environment related matters in NCR including the vehicular pollution control, waste management, air quality management, water pollution, control of noise pollution from DG sets, introduction of cleaner fuels (like CNG/LPG etc.) industrial pollution, public health etc.

2. That with the increasing involvement of the MoEF&CC on multifarious issues involving environmental pollutions and its role has multiplied many folds since 1998, the tenure of EPCA has been extended by MoEF&CC from time to time for the said purpose, and the on going tenure expired on June 30th, 2015. That

further extension of its tenure, re-composition as well as modification of mandate of EPCA is required as also members having expertise in specific areas to meet the advisory role of EPCA is the need of the hour to assist this Hon'ble Court in best possible manners.

3. That the EPCA has been instrumental in coordination with line Ministries/Departments on the important environmental issues like vehicular pollution, waste management, air quality management, water pollution, control of noise pollution from DG sets, introduction of cleaner fuels (like CNG/LPG etc.) industrial pollution, public health etc.
4. That since the tenure of EPCA was coming to over, the competent authority already initiated the process of taking appropriate steps for extension of the tenure of the existing EPCA of another six (06) months and for re-composition of the Authority before the competent authority, MoEF&CC for consideration and approval.

5. That in view of the afore-said facts, the Hon'ble MEF&CC has considered and approved (i) re-constitution, (ii) slight modification of mandate, and (iii) extension on tenure of EPCA from 1st July, 2015 till the issuance of notification to this effect after approval of Hon'ble Supreme Court on afore-said re-constitution and modification of mandate of EPCA. However, to this effect notification has to be notified in the Gazette of India. This could only be expedited after approval of the Hon'ble Supreme Court.
6. That the instant Application is being moved for the extension of tenure, re-constitution and modification of the Mandate of Environment Pollution (Prevention and Control) Authority (EPCA) for NCR, headed by Shri Bhure Lal, Chairman.
7. Accordingly, the Ministry has considered and approved to reconstitute the Environment Pollution (Prevention and Control) Authority (EPCA) for NCR (hereinafter Authority) as per the composition below:

1. Sri Bhure Lal, Ex-Secretary, Govt. of India- (Chairman)
2. Ms. Sunita Narain, Director General, CSE, New Delhi (Member);
3. Secretary (Environment & Forest), Government of NCT of Delhi (Member);
4. Member Secretary, Central Pollution Control Board, Delhi (Member);
5. Commissioner-cum-secretary, Transport Deptt, Govt. of NCT of Delhi (Member);
6. Chairperson, New Delhi Municipal Council, New Delhi (Member)
7. Commissioner, East Delhi Municipal Corporation (Member)
8. Commissioner, South Delhi Municipal Corporation (Member)
9. Commissioner, North Delhi Municipal Corporation (Member)
10. CEO, Delhi Jal Board, New Delhi (Member)
11. Joint Commissioner of Police (Traffic), Delhi Police (Member)
12. Prof. Mukesh Khare, Indian Institute of Technology, New Delhi (Member)

13. Dr. Atul Kumar Johari; Prof. School of Life Sciences, JNU, New Delhi (Member)

14. Shri Ajay Kumar Bhagi, Associate Prof., Deptt. Of Chemistry, Dayal Singh College, Univ. of Delhi, (Member)

8. That the Ministry may subject to permission granted by this Hon'ble Court, revise the Mandate of the Authority (EPCA) is outlined below:

1. The Authority shall exercise the following powers and perform the following functions for protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution, namely:-

1.1 exercise the powers under section 5 of the said Act for issuing directions in respect of complaints relating to the violation of an order by any authority or measure specified pertaining to-

(i) standards for the quality of the environment in its various aspects,

(ii) standards for emission or discharge of environmental pollutants from various sources,

(iii) restriction of areas in which any industries, operations or processes of class of industries or process shall not be carried out or shall be carried out subject to certain safeguards,

(iv) procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents,

(v) procedures and safeguards for the handling of hazardous substances.

1.2 The Authority shall have the power to take up matters as mentioned above, suo-moto, or on the basis of complaints made by any individual, representative body or organization functioning in the field of environment. Such complaints may be against any individual, association, company, public undertaking or local body carrying on any industry, operation or process.

2. The Authority shall, for controlling vehicular pollution, take all necessary steps to ensure compliance of specified emission standards by vehicles including proper calibration of the equipment for testing vehicular pollution, ensuring compliance of fuel quality standards, monitoring and coordinating action for traffic planning and management.

3. The Authority shall, for ensuring maintenance of the specified ambient noise standards, have the power to issue directions under section 5 of the said Act, including banning or restricting any industry, process or operation emitting noise.

4. The Authority shall deal with environmental issues pertaining to the National Capital Region which may be referred to it by the Central Government.

5. The Authority shall exercise the powers of entry, inspection, search and seizure under section 10 of the said Act, in respect of any action to be taken under sub-

paragraph (1.1) of the paragraph 1 of its mandate.

6. The Authority shall exercise the power to take samples under section 11 of the said Act, in respect of any action to be taken under sub-paragraph (1.1) of paragraph 1 of its mandate.

7. The Authority shall exercise the powers under section 19 of the said Act, for making complaints against offences under the said Act and for non-compliance of directions issued by it under sub-paragraph (1.1) of paragraph 1 of its mandate.

8. The Authority shall have jurisdiction over the National Capital Region as defined in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985 (2 of 1985).

9. The foregoing powers and functions of the Authority shall be subject to the supervision and control of the Central Government.

10. The tenure of the Authority will be for a period of two year from the date of

notification of the reconstitution of the Authority.

11. The Authority shall furnish a progress report about its activities once in a month to the Central Government.

12. The Authority shall have its headquarters in National Capital Region,

9. Hence this Hon'ble Court may kindly be pleased to grant permission for re-constitution and to revise the Mandate of the Environment Pollution (Prevention and Control) Authority (EPCA) for NCR.

10. The present application is made bonafide.

PRAYER

In the circumstances mentioned above, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

(i) allow the present application and pass appropriate order/directions permitting grant of re-composition to revise the Mandate of the

environment pollution (prevention and control)
authority (EPCA) for National Capital Region.

(ii) Pass such other and further order/orders as
this Hon'ble Court may deem fit and proper in
the circumstances of the case.


AND FOR THIS ACT OF KINDNESS, THE RESPONENTS
SHALL EVER PRAY.

Drawn by: *
Manita Verma]
ADVOCATE

Filed by:

[S.N. TERDAL]
ADVOCATE
FOR THE RESPONDENTS

Filed on:
New Delhi.



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-Versus-

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...Respondents

AFFIDAVIT

I, Raj Narayan Pankaj, Scientist "C", Ministry of Environment, Forest and Climate Change, Govt. of India, New Delhi do hereby solemnly affirm and state as under:

1. That I am Respondent in the abovementioned case and as such conversant with the facts and circumstances of the case.
2. That I have read the accompanying I.A. for grant of Re-Composition, Rejuvenation and Modification and having understood the contents thereof I say that the facts stated therein are true to my knowledge.



3. That the facts stated in the above affidavit are true to my knowledge. No part of the above affidavit is false and nothing material has been concealed therefrom.

Raj Narayan Pankaj
DEPONENT.

VERIFICATION:

I, the abovenamed deponent do hereby verify that the facts stated therein are true to my knowledge. No part of the above affidavit is false and nothing material has been concealed therefrom.

राज नारायण पंकज
RAJ NARAYAN PANKAJ
वैज्ञानिक 'ग' / Scientist 'C'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



Verified at New Delhi on 17th day of February,

2016.

Raj Narayan Pankaj
DEPONENT.

राज नारायण पंकज
RAJ NARAYAN PANKAJ
वैज्ञानिक 'ग' / Scientist 'C'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

ATTESTED

RAJENDRA KUMAR
NOTARY, DELHI-R-5780
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No.

Ph. 9212491692
9899446205

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17.02.2016
CERTIFIED THAT THE CONTENTS EXPLAINED TO THE
DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO
UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT
DELHI ON 17.02.2016
IDENTIFY THE EXECUTANT/DEPONENT WHO
SIGNED IN MY PRESENCE
IDENTIFY THE EXECUTANT/
DEPONENT WHO WAS

MINISTRY OF ENVIRONMENT AND FORESTS

ORDER

New Delhi, the 29th January, 1998

S.O. 93 (E).— In exercise of the powers conferred by sub-sections (1) and (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) (hereinafter referred to as the said Act), the Central government hereby constitutes an authority to be known as the Environment Pollution (Prevention and Control) Authority for the National Capital Region (hereinafter referred to as the Authority) consisting of the following persons for a period of two years with effect from the date of publication of this Order in the Official Gazette, namely:-

(1) Shri Bhure Lal

Secretary

Central Vigilance Commission,

Jaisalmer House, Mansingh Road,

New Delhi.

Chairman

- (2) Smt. Kiran Dhingra,
Commissioner-cum-Secretary
Transport Department,
Government of the National Capital
Territory of Delhi, Delhi. Member
- (3) Shri Anil Agarwal, Director,
Centre for Science and Environment,
41, Tughlakabad Industrial Area,
(Near Batra Hospital),
New Delhi - 110 062. Member
- (4) Shri Jagdish Khattar,
Representative of the Automobile
Manufacturers Association of India,
Executive Director (Marketing & Sales),
Maruti Udyog Limited, 11th Floor,
Jeevan Prakash 25,
Kasturba Gandhi Marg,
New Delhi - 110 001 Member
- (5) Shri D. K. Biswas, Chairman,
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi - 110 054 Convenor

2. The Authority shall exercise the following powers and perform the following functions for protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution, namely:-

(1) exercise the powers under section 5 of the said Act for issuing directions in respect of complaints relating to the violation of an order by any authority or measure specified pertaining to-

(i) standards for the quality of the environment in its various aspects,

(ii) standards for omission or discharge of environmental pollutants from various sources,

(iii) restriction of areas in which any industries, operations or processes or

class of industries or processes shall not be carried out or shall be carried out subject to certain safeguards,

(iv) procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents,

(v) procedures and safeguards for the handling of hazardous substances.

(2) The Authority shall have the power to take up matters as mentioned above, suo-moto, or on the basis of complaints made by any individual, representative body or organization functioning in the field of environment. Such complaints may be against any individual, association, company, public undertaking or local body carrying on any industry, operation or process.

3. The Authority shall, for controlling vehicular pollution, take all necessary steps to ensure compliance of specified emission standards by vehicles including proper calibration of the equipment for testing vehicular pollution, ensuring compliance of fuel quality standards, monitoring and coordinating action for traffic planning and management.
4. The Authority shall, for ensuring maintenance of the specified ambient noise standards, have the power to issue directions under section 5 of the said Act, including banning or restricting any industry, process or operation emitting noise.
5. The Authority shall deal with environmental issues pertaining to the National Capital Region which may be referred to it by the Central Government.
6. The Authority shall monitor the progress of the action plan drawn up by the Ministry of

Environment and Forests on pollution in Delhi as contained in the 'White Paper on Pollution in Delhi with an Action Plan', issued by the Central Government on 3rd December, 1997.

7. The Authority shall exercise the powers of entry, inspection, search and seizure under section 10 of the said Act, in respect of any action to be taken under sub-paragraph (1) of the paragraph 2 of this Order.
8. The Authority shall exercise the power to take samples under section 11 of the said Act, in respect of any action to be taken under sub-paragraph (1) of paragraph 2 of this Order.
9. The Authority shall exercise the powers under section 19 of the said Act, for making complaints against offences under the said Act and for non-compliance of directions issued by it under sub-paragraph (1) of paragraph 2 of this Order.

10. The Authority shall have jurisdiction over the National Capital Region as defined in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985 (2 of 1985).

11. The foregoing powers and functions of the Authority shall be subject to the supervision and control of the Central Government.

12. The Authority shall furnish a progress report about its activities at least once in two months to the Central Government.

13. The Authority shall have its headquarters in National Capital Region.

14(1). Notification of the Government of India in Ministry of Environment and Forests number S.O.704(E), dated the 9th October, 1996 consisting the Environmental Impact Assessment

Authority for the National Capital Region shall stand superseded (except in respect of things done or omitted to be done before such supersession) from the date of publication of this Order

14(2). Any matter which relates to the powers and functions enumerated in this Order, and pending with the Environmental Impact Assessment Authority shall stand transferred to the Environment Pollution (Prevention and Control) Authority for the National Capital Region constituted under this Order.

14(3). Any matter specifically not falling within the scope and jurisdiction of the Authority as so constituted shall be dealt with by the statutory authorities concerned.

[File No. Q-18011/14/90-CPA]

VIJAY SHARMA, Jt. Secy.