

REVISED

ITEM NO.1+3 Court 3 (Video Conferencing) SECTION PIL-W

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)

((1) IN RE: SMOG TOWERS
(REPORT NO. 106 SUBMITTED BY EPCA (SPECIAL REPORT ON POLLUTION HOT SPOTS IN NCR WITH REQUEST FOR URGENT DIRECTIONS TO IMPROVE ENFORCEMENT AND POLLUTION CONTROL)
(2) REPORT NO. 111 SUBMITTED BY EPCA (REPORT ON PILLING UP OF WASTE/GARBAGE BY THE SIDES OF RAILWAY TRACKS IN DELHI IN COMPLIANCE OF DIRECTIONS OF THE HON'BLE COURT DT. 28.02.2020)
(3) IN RE: REPORT NOS. 81 AND 84 SUBMITTED BY EPCA (IMPLEMENTATION OF THE DECEMBER, 2015 STANDARDS FOR THERMAL POWER PLANTS WHICH WERE TO BE IMPLEMENTED BY DECEMBER, 2017)
(i) I.A. NOS. 53959 AND 53962/2020 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O NTPC)
(ii) I.A. NOS. 52536, 52538 AND 53358/2020 (APPLNS. FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM NOTARIZATION ON B/O ARAVALI POWER CO. LTD.)
(iii) I.A. NOS. 58771 AND 58772/2020 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O TELANGANA STATE POWER GENERATION CORP. LTD.)
(iv) I.A. NOS. 59929 AND 59930/2020 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O U.P. RAJYA VIDYUT UTPADAN NIGAM LTD.)
(v) I.A. NOS. 64205, 64206 AND 64207/2020 (APPLNS. FOR DIRECTIONS, PERMISSION AND EXEMPTION FROM FILING COURT FEE AND ATTESTED AFFIDAVIT ON B/O SINGARENI COLLIERIES CO. LTD.)
(vi) I.A. NOS. 72801 AND 72802/2020 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O RAJIV GANDHI THERMAL POWER PROJECT)
(vii) I.A. NOS. 72795 AND 72796/2020 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O PANIPAT THERMAL POWER STATION (PTPS)
(viii) I.A. NOS. 72778 AND 72779/2020 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O DEEN BANDHU CHHOTU RAM THERMAL POWER PROJECT)
(ix) I.A. NOS. 70498, 70502 AND 70500/2020 (APPLNS. FOR IMPLEADMENT, DIRECTIONS AND STAY ON B/O TAMIL NADU GENERATION AND DISTRIBUTION COPRN. LTD.)
(x) IA NO. 71485/2020 (APPLN. FOR DIRECTIONS ON BEHALF OF GUJARAT MINERAL DEVELOPMENT LTD.)
(xi) IA NO. 81055 AND 81057/2020 (APPLN. FOR DIRECTIONS AND EXEMPTION FROM FILING ORIGINAL NOTARIZED AFFIDAVIT ON B/O NABHA POWER LIMITED)
(xii) IA NOS. 80271, 80272 AND 80274/2020 (APPLNS. FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM NOTARIZATION OF

AFFIDAVIT ON B/O PUNJAB STATE POWER CORPORATION LTD.)

Date : 31-08-2020 This petition was called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE ARUN MISHRA
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HON'BLE MR. JUSTICE KRISHNA MURARI**

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

IN RE : SMOG TOWERS
REPORT NO. 106 SUBMITTED BY EPCA

Undertakings have been furnished by the Secretary of Ministry of Environment, Forests and Climate Change, Govt. of India as well as the Principal Secretary of the Department of Environment and Forests, Govt. Of NCT of Delhi, that they will be completing the work relating to Smog Towers within 10 months and the requisite money has been transferred to the Tata Consultancy, and it is stated in the affidavit filed on behalf of the MoEF that a sum of Rs. 52 Lakhs has also been transferred to Clean air- CARE LLC, which is the licensee of University of Minnesota. Similar is the stand of Govt. of NCT of Delhi. Undertakings are taken on record. Any violation on any ground whatsoever shall be treated as contempt of the order passed by this Court as there is already huge unjustified delay in making the compliance of the order. However, since steps are being taken and undertakings have been furnished, we have not proceeded for violation of the order passed by this Court, only on the basis of the action taken and undertakings furnished to complete the project. Let the project be positively completed within 10 months.

IN : REPORT NO. 111 - PILING UP OF THE WASTE/GARBAGE BY THE SIDES
OF RAILWAY TRACKS IN DELHI

Report No. 111 has been submitted by EPCA, in which it has pointed out the following :-

"In this situation, EPCA would submit for the consideration of the Hon'ble Supreme Court the following :-

Indian Railways is not in compliance with the Municipal Solid Waste Management Rules 2016, which require the bulk waste generator to operationalise a plan for all waste generated. The Hon'ble Supreme Court, may direct Indian Railways to present a time-bound plan for the following :-

- 1. Inventory of all solid waste generated in the Northern Region, starting with Delhi and its vicinity. This inventory must include the waste generated in trains and in the stations.*
- 2. Inventory of all lands belonging to it (along the tracks and other land pieces) where there are waste dumps/discard of plastic and other waste and its plans to handle this on a long-terms basis.*
- 3. Plan for management of solid waste as a bulk generator, to ensure compliance with the MSW Rules, 2016. These plans must be comprehensive so that all solid waste generated is segregated at source; bio-degradable waste is composted and the rest is given to authorised waste recyclers/pickers. The plan must be time-bound and with clear monitoring provisions."*

We have considered the affidavit filed by Sh. Ashwani Kumar Yadav, Additional Divisional Railway Manager at DRM Office, Delhi Division, Northern Railway, Ministry of Railways. It is stated in the affidavit that they are acting in coordination with the South Delhi Municipal Corporation, pursuant to the directions issued by

this Court on 28.02.2020. Meetings were convened on 05.03.2020 and 17.03.2020. A letter was also written on 28.07.2020 in this regard. The Railways, in consultation with the SDMC, devised an action plan to address the problem of dumping of plastic bags, piling of waste and garbage in the Railway premises and along with Railway lines which was sent to the SDMC vide letter dated 05.08.2020, filed as Annexure R2 to the Affidavit.

It is also pointed out in the affidavit filed on behalf of the Railways that there are predominant presence of jhuggies in Delhi along with 140 km route length of track in the region of NCT of Delhi where the railway tracks take off in different directions and also include a ring connecting the takeoff of all these routes. Out of this, about 70 km route length of track is affected by large jhuggie jhopri clusters existing in close vicinity of the tracks. These clusters sum up to a total of about 48000 nos of Jhuggies in the region adjacent to Railway tracks.

Special Task Force for removal of encroachments from the Railway Property has already been constituted by Railway in terms of the directions and order dated 01.10.2018 passed by the NGT PB New Delhi. There seems to be some political intervention against removal of such encroachments which are coming in the way. There are certain encroachments which are within the safety zone of the Railways. It is further stated in the affidavit that the Railways have doubled the efforts towards maintaining the clean environment on tracks leading to Delhi and nearby tracks. The Railways highlight that the added dimension requires manpower for the purpose and is to be met by the staff which is already handling the

work of railway operations.

The Railways has placed on record the task of cleaning the tracks which can be taken in a phased manner and with the cooperation of the statutory authority like Delhi Urban Shelter Improvement Board, Corporations and the State Governments. Other steps taken by the Railways have also been delineated. There is involvement of law and order issues also.

We have heard Ms. Aishwarya Bhati, ASG, Ms. Aparajita Singh, learned Amicus Curiae, Mr. Dinesh Dwivedi and Mr. Wasim A. Qadri, learned senior counsel and other learned counsel appearing on behalf of the Corporations. We direct that let the plan be executed with respect to removal of the plastic bags, garbage etc. within a period of three months and a meeting of all the stakeholders, i.e. Railways, Govt. of NCT of Delhi and concerned Municipal Corporations as well as Delhi Urban Shelter Improvement Trust (DUISB) be called next week and work be started forthwith. 70% of the requisite amount shall be borne by the Railways and 30% by the State Government. The manpower be provided by the SDMC, Railways and agencies available with the Government, free of cost, and they will not charge it from each other. SDMC, Railways and other agencies to ensure that their Contractors do not put the waste/garbage on the sides of the railway tracks.

We also direct all the stakeholders that a comprehensive plan for removal of jhuggies be made and executed in a phased manner. The encroachments which are there in the safety zones should be removed within a period of three months and no interference, political or otherwise, should be there and no Court shall grant

any stay with respect to removal of the encroachments in the area in question. In case any interim order is granted with respect to encroachments, which have been made along with railway tracks, that shall not be effective. Mr. Wasim A. Qadri, learned senior counsel appearing for SDMC, has undertaken the responsibility to remove all the waste/garbage at the specified places where the Railways put the garbage and this will not be a temporary measure, but the Railways shall also prepare a long term scheme that no such piling of the wastes takes place along with the sides of the railways tracks.

The picture painted in the Report of the EPCA as well as in the reply filed by the Railways indicates that nothing has been done so far and waste is being piled up and at the same time, there is human habitation which has come in the same area unauthorisedly, which are required to be taken care of. Let the action taken be reported to this Court within a period of one month. List thereafter.

IN RE : REPORT NOS. 81 & 84 SUBMITTED BY EPCA

Considered the letter dated 26.08.2020 circulated by the Chairman, EPCA. Time of four weeks has been prayed for on behalf of EPCA.

Prayer is allowed.

List after four weeks.

I. A. NOS. 53959 AND 53962/2020

(Applications for impleadment and directions on b/o NTPC)
and

I.A. NOS. 52536, 52538 AND 53358/2020

(APPLNS. FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM NOTARIZATION ON B/O ARAVALI POWER CO. LTD.)

and

I.A. NOS. 58771 AND 58772/2020

(APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O TELANGANA STATE POWER GENERATION CORP. LTD.)

and

I.A. NOS. 59929 AND 59930/2020

(APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O U.P. RAJYA VIDYUT UTPADAN NIGAM LTD.)

and

I.A.Nos. 64205, 64206 AND 64207/2020

(Applications for directions, permission and exemption from filing court fee and attested affidavit on b/o Singareni Collieries Co. Ltd.)

An undertaking be furnished to this Court that they will abide by the ultimate decision to be taken in the matter at the appropriate level. Let the undertaking be furnished to this Court within four weeks from today.

List after four weeks.

Interim order to continue till next date.

I.A. NOS. 72801 AND 72802/2020

(APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O RAJIV GANDHI THERMAL POWER PROJECT)

I.A. NOS. 72795 AND 72796/2020

(APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O PANIPAT THERMAL POWER STATION (PTPS))

I.A. NOS. 72778 AND 72779/2020

(APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O DEEN BANDHU CHHOTU RAM THERMAL POWER PROJECT)

Issue notice.

There shall be interim stay on recovery till the next date of hearing.

I.A. NOS. 70498, 70502 AND 70500/2020

(APPLNS. FOR IMPLEADMENT, DIRECTIONS AND STAY ON B/O TAMIL NADU GENERATION AND DISTRIBUTION COPRN. LTD.)

AND

I.A. NO. 71485/2020

(APPLN. FOR DIRECTIONS ON BEHALF OF GUJARAT MINERAL DEVELOPMENT LTD.)

AND

IA NO. 81055 AND 81057/2020

(APPLN. FOR DIRECTIONS AND EXEMPTION FROM FILING ORIGINAL NOTARIZED AFFIDAVIT ON B/O NABHA POWER LIMITED)

AND

IA NOS. 80271, 80272 AND 80274/2020

(APPLNS. FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM NOTARIZAION OF AFFIDAVIT ON B/O PUNJAB STATE POWER CORPORATION LTD.)

Issue notice.

There shall be interim stay on recovery till the next date of hearing.

CONTEMPT PETITION (C) NO. 467 OF 2020

Issue notice to Respondent Nos. 1 to 5 only.

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
ASSISTANT REGISTRAR