

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

(By Video Conferencing)

Original Application No. 681/2018

(With reports dated 05.04.2021 and 05.02.2021)

In Re: News item published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15"

Date of hearing: 08.04.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE B. AMIT STHALEKAR JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA EXPERT MEMBER**

Respondent(s): Mr. Raj Kumar, Advocate for CPCB
Mr. Pradeep Misra, & Mr. Daleep Dhyani, Advocates for UPPCB

ORDER

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- I. **The Issue: Remedial Action for air pollution in 124 Non-Attainment Cities (NACs) and other air polluted areas where air quality is poor and above and Noise pollution – need for intervention of the Tribunal in view of inadequacy of measures taken so far**

1. The question for consideration is remedial measures to be adopted to enforce the Ambient Air Quality Standards with reference to the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the EP Act) in 124 cities classified as 'Non-Attainment Cities' (NACs)¹ based on monitoring of the ambient air quality. Though initially scope of consideration was limited to NACs, we propose to cover other air polluted areas where air quality is poor and above in this order. Further question is compliance of Noise Pollution (Regulation and Control) Rules, 2000 (Noise Rules) framed under the provisions of the EP Act.

2. The Government of India (GoI) has prepared National Clean Air Programme (NCAP) proposing to reduce the pollution in next 10 years - 35% in next 3 years, 50% in next 5 years and 70-80% in next 10 years but question remains whether preparation of such programme is enough to discharge the Constitutional obligation to ensure maintenance of air quality standards as per norms so that health of the citizens is not adversely affected. While all efforts to reduce pollution are welcome, this cannot be understood to condone violations of laid down air quality standards till pollution reduction is achieved. Efficacy of the programme is required to be tested with reference to result on the ground in terms of reduction of pollution. If infact instead of reduction, pollution is increasing, what further measures are required and what directions are called for by this Tribunal under Sections 15/20 of the NGT Act, 2010.

II. Order dated 08.10.2018: Constitution of AQMC in States for preparing action plans to control air pollution for NACs

¹ NAC has been defined as those "Cities which are exceeding annual average concentrations of any of the notified parameters with respect to National Ambient Air Quality Standards for consecutively five years".

3. Proceedings were initiated suo motu vide order dated 08.10.2018, based on the newspaper report² to the effect that 102 cities (later increased to 124) were identified as NACs for not meeting the prescribed standards of air quality. Such reported violations gave rise to substantial question of environment requiring directions of this Tribunal for protection of environment by requiring enforcement of statutory standards of air quality for giving effect to the sustainable development and in the interest of public health. Adverse health impact of air pollution is well acknowledged.

4. Categories of air quality and its adverse health effect can be noticed from following tables extracted from the judgment of the Hon'ble Supreme Court in *Arjun Gopal & Ors. v. UOI & Ors.*³:

Table 1

<i>AQI</i>	<i>Associated Health Impacts</i>
<i>Good (0-50)</i>	<i>Minimal impact.</i>
<i>Satisfactory (51-100)</i>	<i>May cause minor breathing discomfort to sensitive people.</i>
<i>Moderately polluted (101-200)</i>	<i>May cause breathing discomfort to people with lung disease such as asthma, and discomfort to people with heart disease, children and older adults.</i>
<i>Poor (201-300)</i>	<i>May cause breathing discomfort to people on prolonged exposure, and discomfort to people with heart disease.</i>
<i>Very Poor (301-400)</i>	<i>May cause respiratory illness to the people on prolonged exposure. Effect may be more pronounced in people with lung and heart diseases.</i>
<i>Severe May (401-500)</i>	<i>May cause respiratory impact even on healthy people, and serious health impacts on people with lung/heart disease. The health impacts may be experienced even during light physical activity.</i>

Table 2

<i>AQI Category, Pollutants and Health Breakpoints</i>								
<i>AQI category (Range)</i>	<i>PM₁₀ 24-hr</i>	<i>PM_{2.5} 24-hr</i>	<i>NO₂ 24-hr</i>	<i>O₃ 8-hr</i>	<i>CO 8-hr (mg/m³)</i>	<i>SO₂ 24-hr</i>	<i>NH₃ 24-hr</i>	<i>Pb 24-hr</i>
<i>Good (0-50)</i>	<i>0-50</i>	<i>0-30</i>	<i>0-40</i>	<i>0-50</i>	<i>0-1.0</i>	<i>0-40</i>	<i>0-200</i>	<i>0-0.5</i>
<i>Satisfactory (51-100)</i>	<i>51-100</i>	<i>31-60</i>	<i>41-80</i>	<i>51-100</i>	<i>1.1-2.0</i>	<i>41-80</i>	<i>201-400</i>	<i>0.5-1.0</i>

² Dated 03.08.2019 in the Times of India under the heading "NCAP with multiple timelines to clean air in 102 cities to be released around August 15".

³ (2017) 1 SCC 412

<i>Moderately polluted (101-200)</i>	<i>101-250</i>	<i>61-90</i>	<i>81-180</i>	<i>101-168</i>	<i>2.1-10</i>	<i>81-380</i>	<i>401-800</i>	<i>1.1-2.0</i>
<i>Poor (201-300)</i>	<i>251-350</i>	<i>91-120</i>	<i>181-280</i>	<i>169-208</i>	<i>10-17</i>	<i>381-800</i>	<i>801-1200</i>	<i>2.1-3.0</i>
<i>Very poor (301-400)</i>	<i>351-430</i>	<i>121-250</i>	<i>281-400</i>	<i>209-748*</i>	<i>17-34</i>	<i>801-1600</i>	<i>1200-1800</i>	<i>3.1-3.5</i>
<i>Severe (401-500)</i>	<i>430+</i>	<i>250+</i>	<i>400+</i>	<i>748+*</i>	<i>34+</i>	<i>1600+</i>	<i>1800+</i>	<i>3.5+</i>

5. The Air Act stipulates stopping of any activity violating norms of air quality and taking steps for prosecution or other regulatory measures⁴ which have been read to include recovery of compensation on 'Polluter Pays' principle⁵. National Ambient Air Quality Standards are laid down under Section 16(2)(h) of the Air Act. Notification dated 18.11.2009, issued by the CPCB is as follows:

"In exercise of the powers conferred by Sub-section (2) (h) of section 16 of the Air (Prevention and Control of Pollution) Act, 1981 (Act No. 14 of 1981), and in super session of the Notification No(s). S.O. 384(E), dated 11th April, 1994 and S.O. 935(E), dated 14th October, 1998, the Central Pollution Control Board hereby notify the National Ambient Air Quality Standards with immediate effect, namely:-

NATIONAL AMBIENT AIR QUALITY STANDARDS

S. No.	Pollutant	Time Weighted average	Concentration in Ambient Air		Methods of Measurement
			Industrial, Residential, Rural and Other Area	Ecologically sensitive area (notified by Central Govt.)	
(1)	(2)	(3)	(4)	(5)	(6)
1	Sulphur Dioxide (SO ₂), mg/m ³	Annual*	50	20	<ul style="list-style-type: none"> Improved West and Geake Ultraviolet fluorescence
		24 hours**	80	80	
2	Nitrogen Dioxide (NO ₂), mg/m ³	Annual*	40	30	<ul style="list-style-type: none"> Modified Jacob & Hochheiser (Na-Arsenite) Chemiluminescence
		24 hours**	80	80	

⁴ Section 22 read with Section 31A of the Air Act and

⁵ Aryavart Foundation Vs. M/s Vapi Green Enviro Limited & Ors. O.A No. 95/2018, Indian Council for Enviro Legal Action & Ors. v. Union of India & Ors. (1996) 3 SCC 212 Para 16, Vellore Citizens Welfare Forum v. Union of India & Ors. (1996) 5 SCC 647 Para 12 to 18 - holding that 'Polluter Pay' principle is accepted principle and part of environmental law of the country, even without specific statute.

3	Particulate Matter (size less than 10 mm) or PM ¹⁰ mg/m ³	Annual*	60	60	<ul style="list-style-type: none"> • Gravimetric • TOEM • Beta attenuation
		24 hours**	100	100	
4	Particulate Matter (size less than 2.5 microns) or PM _{2.5} mg/m ³	Annual*	40	40	<ul style="list-style-type: none"> • Gravimetric • TOEM • Beta attenuation
		24 hours**	60	60	
5	Ozone (O ₃) mg/m ³	8 hours **	100	100	<ul style="list-style-type: none"> • UV photometric • Chemiluminescence • Chemical method
		1 hour **	180	180	
6	Lead (Pb) mg/m ³	Annual*	0.5	0.5	<ul style="list-style-type: none"> • ASS / ICP method after sampling on EPM 2000 or equivalent filter paper • ED – XRF using Teflon filter
		24 hours**	1.0	1.0	
7	Carbon Monoxide (CO) mg/m ³	8 hours**	2	2	Non Dispersive Infra RED (NDIR) Spectroscopy
		1 hour**	4	4	
8	Ammonia (NH ₃) mg/m ³	Annual*	100	100	<ul style="list-style-type: none"> • Chemiluminescence • Indophenol blue method
		24 hours**	400	400	
9	Benzene (C ₆ H ₆) mg/m ³	Annual*	5	5	<ul style="list-style-type: none"> • Gas chromatography based continuous analyser • Adsorption and desorption followed by GC analysis
10	Benzo (a) Pyrene (BaP) – particulate phase only ng/m ³	Annual*	1	1	Solvent extraction followed by HPLC / GC analysis
11	Arsenic (As) ng/m ³	Annual*	6	6	AAS / ICP method after sampling on EPM 2000 or equivalent filter paper
12	Nickel (Ni) ng/m ³	Annual*	20	20	AAS / ICP method after sampling on EPM 2000 or equivalent filter paper

* Annual arithmetic mean of minimum 104 measurements in a year at a particular site taken twice a week 24 hourly at uniform intervals.

** 24 hourly or 8 hourly or 1 hourly monitored values, as applicable, shall be complied with 98% of the time in a year. 2% of the time, they may exceed the limits but not on two consecutive days of monitoring.

Note: Whenever and wherever monitoring results on two consecutive days of monitoring exceed the limits specified above for the respective category, it shall be considered adequate reason to institute regular or continuous monitoring and further investigation.”

6. The Central Pollution Control Board (CPCB) compiled its report on the basis of NAMP data for the years from 2014-2019 and published a list

of 102 NACs⁶. Presently, the list has gone upto 124 NACs which is as follows:

“List of 124 Non-Attainment cities

State	S. No.	City
Andhra Pradesh (13)	1.	Guntur
	2.	Kurnool
	3.	Nellore
	4.	Vijayawada
	5.	Vishakhapatnam
	6.	Anantapur
	7.	Chittoor
	8.	Eluru
	9.	Kadapa
	10.	Ongole
	11.	Rajahmundry
	12.	Srikakulam
	13.	Vizianagaram
Assam (05)	14.	Guwahati
	15.	Nagaon
	16.	Nalbari
	17.	Sibsagar
	18.	Silchar
Bihar (03)	19.	Patna
	20.	Gaya
	21.	Muzaffarpur
Chandigarh (01)	22.	Chandigarh
Chhattisgarh (03)	23.	Bhilai
	24.	Korba
	25.	Raipur
Delhi (01)	26.	Delhi
Gujarat (03)	27.	Surat
	28.	Ahmedabad
	29.	Vadodara
Himachal Pradesh (7)	30.	Baddi
	31.	Damtal
	32.	Kala Amb
	33.	Nalagarh
	34.	Paonta Sahib
	35.	Parwanoo
	36.	Sunder Nagar
Jammu & Kashmir (2)	37.	Jammu
	38.	Srinagar

⁶ https://cpcb.nic.in/uploads/Non-Attainment_Cities.pdf

Jharkhand (01)	39.	Dhanbad
Karnataka (04)	40.	Bangalore
	41.	Devanagere
	42.	Gulburga
	43.	Hubli-Dharwad
Madhya Pradesh (06)	44.	Bhopal
	45.	Dewas
	46.	Indore
	47.	Sagar
	48.	Ujjain
	49.	Gwalior
Maharashtra (18)	50.	Akola
	51.	Amravati
	52.	Aurangabad
	53.	Badlapur
	54.	Chandrapur
	55.	Jalgaon
	56.	Jalna
	57.	Kolhapur
	58.	Latur
	59.	Mumbai
	60.	Nagpur
	61.	Nashik
	62.	Navi Mumbai
	63.	Pune
	64.	Sangli
	65.	Solapur
	66.	Ulhasnagar
	67.	Thane
Meghalaya (01)	68.	Byrnihat
Nagaland (02)	69.	Dimapur
	70.	Kohima
Orissa (07)	71.	Angul
	72.	Balasore
	73.	Bhubaneswar
	74.	Cuttack
	75.	Rourkela
	76.	Talcher
	77.	Kalinga Nagar
	78.	Dera Bassi
	79.	Gobindgarh
	80.	Jalandhar

Punjab (09)	81.	Khanna
	82.	Ludhiana
	83.	Naya Nangal
	84.	Pathankot/Dera Baba
	85.	Patiala
	86.	Amritsar
Rajasthan (05)	87.	Alwar
	88.	Jaipur
	89.	Jodhpur
	90.	Kota
	91.	Udaipur
Tamilnadu (03)	92.	Thoothukudi
	93.	Trichy
	94.	Madurai
Telangana (04)	95.	Hyderabad
	96.	Nalgonda
	97.	Patancheruvu
	98.	Sangareddy
Uttar Pradesh (16)	99.	Agra
	100.	Allahabad
	101.	Anpara
	102.	Bareily
	103.	Firozabad
	104.	Gajraula
	105.	Ghaziabad
	106.	Jhansi
	107.	Kanpur
	108.	Khurja
	109.	Lucknow
	110.	Moradabad
	111.	Noida
	112.	Raebareli
	113.	Varanasi
	114.	Gorakhpur
Uttarakhand (03)	115.	Kashipur
	116.	Rishikesh
	117.	Dehradun
	118.	Kolkata
	119.	Asansol
	120.	Barrackpore
	121.	Durgapur
	122.	Haldia

	123.	Howrah
	124.	Raniganj

7. As already mentioned, the GoI prepared National Clean Air Programme (NCAP) proposing to reduce the pollution in next 10 years - 35% in next 3 years, 50% in next 5 years and 70-80% in next 10 years. The data shows that as against number of NACs being 95 in the year 2017⁷, the number increased to 102 in the year 2018, then to 122 and now to 124. Further, data of air quality for the entire Country is still not available in absence of adequate monitoring stations. Thus, the action taken so far is certainly inadequate, calling for intervention of this Tribunal as per mandate of law under Sections 15/20 of the NGT Act.

SC judgements on control of air polluting activities: vehicular pollution⁸, industrial and construction sector pollution⁹, power sector pollution¹⁰ and agricultural sector pollution:

8. The Tribunal noted the concern arising from such large-scale air pollution which grapples the country in spite of statutory mechanism under the Air Act, directions of the CPCB under section 18(1)(b), dated 29.12.2015 and directions of the Hon'ble Supreme Court for control of

⁷ <http://cpcbenvi.nic.in/airpollution/finding.htm>. Based on ambient air quality data obtained (2008-2010) under National Air Quality Monitoring Programme (NAMP)

⁸ Rural Litigation and Entitlement Kendra, Dehradune and Others Vs State of U.P. Others (1985) 2 SCC 431, M.C. Mehta v. Union of India (2001) 3 SCC 756, M.C. Mehta v. Union of India (1998) 6 SCC 63, M.C. Mehta v. Union of India (2002) 4 SCC 356, M.C. Mehta v. Union of India (1998) 6 SCC 60

⁹ M.C. Mehta v. Union of India (1997) 2 SCC 353, M.C. Mehta v. Union of India and Shriram Foods and Fertilizer Industries and Anr. (1986) 2 SCC 176, Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P. (1985) 2SCC 431, Mohd. Haroon Ansari v. District Collector (2004) 1 SCC 491, Union of India v. Union Carbide Co. (1989) 1 SCC 674, M.C. Mehta v. Union of India (1992) 3 SCC 256, Sterlite Industries (India) Ltd. etc. v. Union of India & Ors.(2013) 4SCC 575 , M.C. Mehta v. Union of India (2004) 6 SCC 588, M.C. Mehta v. Kamal Nath (2000)6 SCC 213

¹⁰ Consumer Education and Research Centre v. Union of India (1995)3 SCC 42, Dahanu Taluka Environment Protection group and Ors. v. Bombay Suburban Electricity Supply Company Ltd. and Ors (1991) 2SCC 539

vehicular pollution¹¹, industrial and construction sector pollution¹², power sector pollution¹³ and agricultural sector pollution¹⁴ and orders of this Tribunal dealing with the said issues¹⁵.

9. In *M.C. Mehta v. UOI*, it was observed:

“1. The urgency for protection and improvement of the environment etc. has not been doubted for a long time. After the Stockholm Conference, 1972, in India several legislative steps have been taken for implementation of the programme. In addition to Article 47 in Part IV of the Constitution which imposes a duty on the State to improve the public health mentioned as one of the primary duties. Article 48A was inserted by the Constitution (42nd Amendment) Act, 1976 with effect from 3-1-1977 expressly to the effect that "the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country". Thereafter, the Environment (Protection) Act, 1986 (the Act) was enacted to provide for the protection and improvement of the environment and for matters connected therewith. The Statement of Objects and Reasons emphasises the world-wide concern over the decline in environmental quality and the urgency of steps required for the protection and improvement of the environment. It is clear that the possibility of any deterioration in the environmental quality was excluded and emphasis at the minimum was on protection with the endeavour to improve the then existing state of environmental quality. Any further decline in the environmental quality at least after the enactment of the Act is undoubtedly a failure to perform this obligation by the State, contrary to the constitutional scheme.

2. It cannot be disputed by anyone that there has been considerable further decline in the environmental quality even after enactment of the Environment (Protection) Act, 1986, notwithstanding the resolve to prevent which the constitutional amendment was given effect to by enactment of the statute.

¹¹ *Rural Litigation and Entitlement Kendra, Dehradune and Others Vs State of U.P. Others* (1985) 2 SCC 431, *M.C. Mehta v. Union of India* (2001) 3 SCC 756, *M.C. Mehta v. Union of India* (1998) 6 SCC 63, *M.C. Mehta v. Union of India* (2002) 4 SCC 356, *M.C. Mehta v. Union of India* (1998) 6 SCC 60

¹² *M.C. Mehta v. Union of India* (1997) 2 SCC 353, *M.C. Mehta v. Union of India and Shriram Foods and Fertilizer Industries and Anr.* (1986) 2 SCC 176, *Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P.* (1985) 2SCC 431, *Mohd. Haroon Ansari v. District Collector* (2004) 1 SCC 491, *Union of India v. Union Carbide Co.* (1989) 1 SCC 674, *M.C. Mehta v. Union of India* (1992) 3 SCC 256, *Sterlite Industries (India) Ltd. etc. v. Union of India & Ors.*(2013) 4SCC 575 , *M.C. Mehta v. Union of India* (2004) 6 SCC 588, *M.C. Mehta v. Kamal Nath* (2000)6 SCC 213

¹³ *Consumer Education and Research Centre v. Union of India* (1995)3 SCC 42, *Dahanu Taluka Environment Protection group and Ors. v. Bombay Suburban Electricity Supply Company Ltd. and Ors* (1991) 2SCC 539

¹⁴ *Arjun Gopal and Ors v. Union of India and Ors* (2017) 16 SCC 280, *Dr. B.L Wadhwa v. Union of India and Ors* (1996) 2 SCC 594

¹⁵ *Vardhman Kaushik v. Union of India and Ors.* O.A no. 21 of 2014, *Vikrant Kumar Tongad v. Environment Pollution (Prevention and Control) Authority and Ors*, O.A No. 118 of 2013, *Satish Kumar v. Union of India and Ors*, O.A. No. 56 (T_{HC}) OF 2013, *Smt. Ganga Lalwani V. Union of India and Ors.* O.A No. 451 of 2018

3. Even a cursory perusal of the provisions of the enactment reveal the emphasis on the need for not mere protection but also improvement of the environmental quality. The definitions including that of "environment" in Section 2 of the Act, the extent of the powers of the Central Government in Section 3 and the further power to give directions in Section 5 are alone sufficient to indicate the high degree of duty imposed on the State for which large powers are given to enable discharge of that duty. We may refer in particular to Sub-section (3) of Section 3 which confers powers on the Central Government to constitute an authority or authorities considered necessary or expedient by it for the purposes of this Act and the further power to give directions under Section 5.

4. In spite of a number of matters, including this writ petition of 1985 having been brought in the Court as PIL, the required attention does not appear to have been paid by the authorities concerned to take the steps necessary for discharge of this duty imposed on the State by the provisions mentioned above except for the enactment of the said statute. The least which ought to have been done in this direction was to constitute a high-power committee at the national level of eminent persons and to ensure Constitution of similar authorities at the State level in exercise of the power given by Sub-section (3) of Section 3 of the Act to ensure that the object of the enactment was duly served. The several aspects of the environment which this Court is required to deal with in this writ petition are all covered not merely by the general provisions in Sub-section (1) of Section 3 but also by the specific matters specified in Sub-section (2) thereof. It is only on account of the absence of the authority/authorities contemplated under Sub-section (3) of Section 3 that this Court is required to deal with these matters in this writ petition and several other similar writ petitions pending in this Court, in addition to those which are pending in different High Courts. It is also a matter of concern that notwithstanding the pendency of these matters in this Court for so long no steps have been taken as yet by the Central Government for the Constitution of the authority/authorities contemplated by Sub-section (3) of Section 3 so that even now these matters can be taken care of by the authorities intended for the purpose.

5. It is undoubtedly a matter of universal concern that the quality of the environment continues to deteriorate even now. Any further delay in the performance of its duty by the Central Government cannot, therefore, be permitted. Suitable directions by the Court to require performance of its duty by the Central Government is mandated by the law and have, therefore, now to be given. We consider it appropriate that before issuing such directions, the Central Government should be given one more opportunity to indicate all the measures taken by it so far for discharge of the duty enjoined on it by the above provisions in Part IV of the Constitution and the Environment (Protection) Act, 1986.

6. It need hardly be added that the duty cast on the State under Articles 47 and 48A in particular of Part IV of the Constitution is to be read as conferring a corresponding right on the citizens and, therefore, the right under Article 21 at least must be read to include

the same within its ambit. At this point of time, the effect of the quality of the environment on the life of the inhabitants is much too obvious to require any emphasis or elaboration.

7. We may also add that the Central Government in addition to stating all the steps taken so far, as indicated above, must also place before the Court the national policy, if any, drawn up in this behalf for the protection and improvement of the environment and the steps it proposes to take to restore the quality of the environment at least to the level at which it existed in 1977 together with the time-frame for the implementation of the programme. These particulars be furnished on the affidavit of the Secretary, Ministry of Environment and Forests, Government of India.”

CAP and GRAP for NCR

10. The Tribunal also referred to a Comprehensive Action Plan (CAP) for air pollution control for NCR prepared in pursuance of order of the Hon'ble Supreme Court dated 06.2.2017 by the Environment Pollution (Prevention and Control) Authority (EPCA) in consultation with the CPCB and Delhi Pollution Control Committee (DPCC) on 05.04.2017¹⁶ and Graded Response Action Plan (GRAP) notified by the MoEF&CC on 12.01.2017 stipulating specific steps for different levels of air quality such as **improvement in emission and fuel quality and other measures for vehicles, strategies to reduce vehicle numbers, non-motorised transport network, parking policy, traffic management, closure of polluting power plants and industries including brick kilns, control of generator sets, open burning, open eateries, road dust, construction dust, etc.**¹⁷

Unfavourable ranking of India in terms of air pollution

11. Implementation of prescribed norms in the light of legal provisions and court directions remains a challenge. The consequence is that India

¹⁶ Report No.71, EPCA-R/2-17/L-21, Comprehensive Action Plan for air pollution control with the objective to meet ambient air quality standards in the National Capital Territory of Delhi and National Capital Region, including states of Haryana, Rajasthan and Uttar Pradesh.

¹⁷ S.O.118(E), Notification, Ministry of Environment, Forest and Climate Change

is being ranked high in terms of level of pollution compared to many other countries with enormous adverse impact on public health. Most victims are children, senior citizens and the poor.¹⁸

12. The GRAP categorises levels of pollution as severe plus, severe, very poor, moderate to poor. The action to be taken in such situations includes **stopping entry of trucks, stopping construction activities, odd and even scheme of private vehicles, shutting of schools, closing of brick kilns, stone crushers, hot mix plants, power plants, intensifying public transport services, mechanized cleaning of road, and sprinkling of water, stopping the use of diesel generator sets, enhancing parking fees, etc.**

13. The MoEF&CC has by various notifications put **restrictions on activities in Coastal areas, Flood plains, Taj corridor Eco-sensitive zones, etc. in view of ecological sensitivity and impact of such activities on environment if such activities are carried out in unregulated areas.** This needs to be extended to the NACs in view of impact on public health and environment to give effect to the 'Precautionary' and 'Sustainable Development' principles. Some of the well-known sources of air pollution are:

1. Construction activity and carriage of construction material.
2. Mining and transportation of mined material.
2. Burning of Municipal Solid Waste and other waste.
3. Burning of agriculture residue.
4. Bursting of crackers.
5. Vehicular Pollution
6. Diesel gen-sets
7. Dust on the roads.
8. Industrial and power house emissions including fly-ash.
9. Emissions from coal fired activities brick kilns, Hot-Mix Plants and Stone Crushers.

¹⁸ <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranks-177-out-of-180-in-environmental-performance-index/article22513016.ece>, <https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.

Tribunal's Intervention by 8.10.2018 order - Constitution of Air Quality Monitoring Committee (AQMC) in States, supervised by Chief Secretaries to prepare and execute action plans to control air pollution – with air quality monitoring and public grievance redressal portals

14. The Tribunal, after consideration of the issue on 08.10.2018, directed as follows:

- i. All the States and Union Territories with non-attainment cities must prepare appropriate action plans within two months aimed at bringing the standards of air quality within the prescribed norms within six months from date of finalization of the action plans.*
- 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.***
- iii. The Action Plans may take into account the GRAP, the CAP and the action plan prepared by CPCB as well as all other relevant factors. The Action Plans may be forwarded to the CPCB by 31.12.2018. The same may be placed before the Committee as directed in direction no. vi. **The Action Plan will include components like identification of source and its apportionment considering sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc.** The action plan shall also consider measures for strengthening of Ambient Air Quality (AAQ) monitoring and steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.*
- iv. **The Action Plan will indicate steps to be taken to check different sources of pollution having speedy, definite and specific timelines for execution.***
- v. **The Action Plan should be consistent with the carrying capacity assessment of the non-attainment cities in terms of vehicular pollution, industrial emissions and population density, extent of construction and construction activities etc. The carrying capacity assessment shall also lay emphasis on agricultural and indoor pollution in rural areas. Depending upon assessed carrying capacity and source apportionment, the authorities may consider the need for regulating number of vehicles and their parking and plying, population***

density, extent of construction and construction activities etc. Guidelines may accordingly be framed to regulate vehicles and industries in non-attainment cities in terms of carrying capacity assessment and source apportionment.

- vi. *The Committee comprising of (a) Shri. Prashant Gargava, Member Secretary, CPCB, (b) Dr. Mukesh Khare, Professor, IIT Delhi, and (c) Dr. Mukesh Sharma, Professor, IIT Kanpur shall examine the Action Plans and on the recommendations of the said Committee, the Chairman, CPCB shall approve the same by 31.01.2019.*
- vii. *The Chief Secretaries of the State and Administrators/ Advisors to Administrators of the Union Territories will be personally accountable for failure to formulate Action Plans, as directed.*
- viii. *The CPCB, SPCBs and State Pollution Control Committees shall develop a public grievance redressal portal for redressal of public complaints on air pollution along with a supervisory mechanism for its disposal in a time bound manner. Any visible air pollution can be reported at such portal by email/ SMS.*
- ix. *The CPCB and all the State Pollution Control Boards and Pollution Control Committees shall collectively workout and design a robust nationwide ambient air quality monitoring programme in a revised format by strengthening the existing monitoring network with respect to coverage of more cities/towns. The scope of monitoring should be expanded to include all twelve (12) notified parameters as per Notification No B-29016/20/90/PCI-L dated 18th November, 2009 of CPCB. The continuous Ambient Air Quality Monitoring Stations (AAQMS) should be preferred in comparison to manual monitoring stations. The CPCB and States shall file a composite action plan with timelines for its execution which shall not be more than three months. It is expected that all such AAQMS shall be connected to central server of CPCB for reporting analysis of results in a form of Air Quality Bulletin for general public at regular intervals atleast on weekly basis and ambient air quality on continuous basis on e-portal. MoEF&CC will provide requisite funds for the purpose. MoEF&CC in consultation with Ministry of Housing and Urban Affairs, MoRTH, Ministry of Petroleum and Natural Gas, Ministry of Agriculture, Cooperation and Farmers Welfare or any other Ministry to lay down such guidelines as may be considered necessary for improvement of air quality in the country.”*

III. Orders in related matters - dated 16.01.2019 in OA 606/2018, 26.02.2020 in OA 773/2018, 01.12.2020 in OA 249/2020, 03.12.2020 in OA 283/2020, 05.02.2021 in OA 95/2018, order dated 14.11.2019 in O.A. No. 1038/2018, order dated 23.07.2018 in O.A No. 451 of 2018, order dated 17.03.2021 in O.A. No. 67/2019 and order dated 17.02.2021 in O.A. No. 1016/2019

- a. **Order dated 16.01.2019 in OA 606/2018: Requiring Chief Secretaries of all States/UTs to study and appear before the Tribunal to remedy significant environmental challenges including air pollution in NACs**

15. In pursuance of order dated 16.01.2019 in OA 606/2018, the Chief Secretaries of all States/UTs appeared in person. The orders specified areas of environmental concern being waste management, pollution of water bodies, non-attainment cities, polluted industrial areas, sand mining and enforcement mechanism, including compensation regime for restoration of environment. After interaction with them, the Tribunal inter alia directed further monitoring at their level atleast once every month and sending quarterly status reports. The Chief Secretaries were to constitute environmental cells directly under them and monitor compliance atleast once in a month. Similarly, District Magistrates were to monitor compliance at district level with the assistance of District Task Force as per District Environment Plan.

b. Order dated 26.02.2020 in OA 773/2018 regarding remedial action for unregulated parking and traffic congestion:

16. The Tribunal considered another overlapping issue of unregulated illegal parking on the roads, adding to air pollution and impacting public health.¹⁹ Vide order dated 26.02.2020, reference was made to the stand of the Ministry of Road Transport & Highways (MoRTH) that the Ministry was engaged in undertaking carrying capacity study for transport infrastructure. The Tribunal directed the concerned joint Secretaries of MoRTH as well as Ministry of Housing and Urban Development, Govt. of India and Member Secretary, CPCB to remain present in person, after acquainting themselves fully on the subject. Accordingly, a report dated 16.06.2020 has been filed by the MoRTH and by the Ministry of Urban Affairs jointly on the subject of undertaking carrying capacity of the roads.

c. Order dated 01.12.2020, in OA 249/2020: ban on crackers having regard to poor and below air quality

¹⁹ OA 773/2018, Metro Transit Private Limited v. South Delhi Municipal Corporation & Ors.

17. Vide order dated 01.12.2020, in OA 249/2020, *Tribunal on its own motion v. Ministry of Environment, Forest & Climate Change & Ors.*, the Tribunal imposed ban on sale and use of fire crackers in all cities/towns where air quality was 'poor' and 'below' and restricted their use where air quality was 'moderate' or 'below' to green crackers only upto 2 hours on specified festivals. It was also directed that atleast one AAQMS must be set up at every District Headquarter and if online station was not possible atleast a manual station was required to be set up which did not cost much. Air quality data was also directed to be placed on the website of the District Administration. Direction as also issued for assessment and recovery of compensation for violations.

d. Order dated 14.11.2019 in O.A. No. 1038/2018, order dated 23.07.2018 in O.A No. 451 of 2018, order dated 17.03.2021 in O.A. No. 67/2019 and order dated 17.02.2021 in O.A. No. 1016/2019 – polluted industrial areas, crop residue burning, use of pet coke as fuel and brick kilns in NCR

18. The Tribunal has also considered the issues of remedial action against pollution as indicated by Comprehensive Environmental Pollution Index (CEPI) showing 100 industrial areas polluted vide order dated 14.11.2019 in OA No. 1038/2018, *News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels"*, vide order dated 23.07.2018 in O.A No. 451 of 2018, *Smt. Ganga Lalwani V. Union of India and Ors.*, on the subject of regulation and control of pollution by burning of crop residue, vide order dated 17.03.2021 in OA No. 67/2019, *Sumit Kumar v. State of Himachal Pradesh & Ors.*, on the subject of control of pet coke and vide order dated 17.02.2021 in OA No. 1016/2019, *Utkarsh Panwar v. Central Pollution Control Board & Ors.* on the subject of regulation and control of brick kilns and issued directions.

e. Order dated 03.12.2020 in OA 283/2020: Dust Control during road sweeping

19. Vide order dated 03.12.2020 in OA 283/2020, *R.S. Virk v. Central Pollution Control Board*, the Tribunal directed all Municipal Corporations, local bodies in the NCR and other cities where air quality was 'poor' and above to take steps **to ensure sprinkling of water before sweeping of roads, using treated water from STPs and to take steps for planting of grass/raising small herbs and shrubs on the sides of the pavements/road shoulders and on open dusty areas, including the areas on the sides of the pavements/right of way. Also directed that the pavements may also be appropriately covered so as to prevent generation of dust. It was also directed that the issue of stopping burning of biomass/waste and construction and demolition activities be duly regulated and the local bodies may send their action taken reports to the Principal Secretaries, Environment heading the AQMCs every quarter, who may thereafter send their reports to CPCB.**

f. Order dated 05.02.2021 in OA No. 95/2018: Need for Data Grid for better planning and monitoring

20. The Tribunal, vide order dated 05.02.2021 in OA No. 95/2018, *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors.*, referred to the need for authentic data being compiled to facilitate planning and monitoring. It was observed:

"20. Further, for improving monitoring and planning, authentic data needs to be compiled at all levels. Initiative will have to be taken consistent with Digital India initiatives by the MoEF/MoJS/MoUD/CPCB and based on such policy decisions, the Environment departments of all States/UTs will have to compile data in their respective jurisdiction, preferably District-wise. On that basis District Environment Data Grid (DEDG), State Environment Data Grid (SEDG) and National Environment Data Grid (NEDG) can be set up and continuously updated. The Grid can be connected to online monitoring systems. Comprehensive Environment Pollution

Index (CEPI) is being prepared limited to the Industrial Area but the Grid can cover larger areas and aspects and can be source of research and planning. It can also facilitate monitoring of and be in sync with other government initiatives such as National Mission for Clean Ganga, Swachh Bharat and Jalshakti Abhiyan etc. Based on such data, it may also be easier to study ‘carrying capacity’ of different areas to plan siting policy for various activities.

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viii. *Consistent with Digital India initiatives, MoEF&CC/MoJS/CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) DEDGs and further linked to available portals like online air/water quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to initiatives like NMCG/Swachh Bharat/Jal Jeevan Mission.”*

IV. Review of compliance status of directions for remedial action - Orders in this matter dated 15.03.2019, 06.08.2019, 20.11.2019 and 21.08.2020

Order dated 15.3.2019: First review of progress of implementation of directions dated 8.10.2108. Further directions in view of inadequate progress

21. Vide order dated 15.03.2019, the Tribunal considered the status of compliance by various States/UTs in the matter of preparing and executing action plans for control of air pollution in pursuance of order dated 8.10.2018. **Since there was large scale non-compliance, further directions were issued.**

Order dated 06.08.2019: Second review of progress in preparing and executing action plans and to include Noise control measures and develop Emergency Response systems with mock drills

22. Further review was undertaken vide order dated 06.08.2019.

Following questions were framed for consideration:

a. *Whether a robust nationwide real time online continuous ambient air quality monitoring programme has been designed as*

- admittedly there are shortcomings in the current air quality monitoring regime in view of area coverage and quality of data?*
- b. Whether more cities have been identified as NACs and strategy to deal with the same has been prepared?*
 - c. Whether the States with NACs have prepared time bound and budgeted Action Plans for bringing the air quality of NACs in their States within the prescribed norms?*
 - d. Whether the components of such Action Plans are in conformity with the directions in order dated 08.10.2018²⁰?*
 - e. Whether environmental compensation regime has been designed on 'Polluter Pays' principle?*
 - f. Whether CPCB, SPCBs and PCCs have developed a public grievance redressal portal?*
 - g. Further directions to deal with the situation."*

23. Status with reference to each of the above questions was examined and following directions were issued:

- I. CPCB, SPCBs and PCCs need to ensure assessment and installation of the requisite number of real time Online Continuous AAQMS within six months from today and indicate progress in this regard before the next date.*
- II. The Expert Team of CPCB to design a model/SOP for source apportionment and carrying capacity assessment within two months which may be replicated for all the NACs. In the light of such study, further action may need to be considered by MoEF&CC within three months thereafter in terms of regulating the number of vehicles, action in terms of shift to e-vehicles and CNG vehicles, intensifying public transport system, mechanical cleaning of roads, enhancement of public parking facilities etc., improvement in fuel quality and traffic management, regulation of construction activities, strict adherence to siting guidelines with regard to stone crushers, mining, brick kilns, thermal power plants, coal handling, air polluting industries, hot mix plants, etc. Besides, activities like crop burning and burning of trash wood/leaves/debris for heating in winters to be strictly regulated and violations penalized as has been done by notifications for ESZ, CRZ, Ganga Flood plains etc.*
- III. Concerned Town & Country Planning departments (with whatever be the name in the State) of all the States/UTs may ensure review of master plans specially for the NACs to be consistent with carrying capacity and source apportionment study reports within six months of such reports being available and furnish compliance reports to this Tribunal and CPCB.*

²⁰ (I) Identification of source of pollution; (II) Determining source apportionment including sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc; (III) measures for strengthening of Ambient Air Quality (AAQ) monitoring and (IV) Steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.

- IV. *Concerned States may evolve enforcement mechanism for closing/ shifting of industrial units other than household industries from residential/non-conforming areas in the light of law laid down in M.C. Mehta vs Union of India, (2004) 6SCC 588.*
- V. *SPCBs/PCCs need to develop interactive public grievance redressal portals on the pattern of CPCB portal "Sameer" within two months if not already done.*
- VI. *Actions Plans need to be prepared by States for the additional 20 NACs on the pattern of 102 NACs within three months and after its approval by CPCB within two months, States must initiate time bound action on remediation within next three months.*
- VII. *CPCB may finalize the pending action plans within two months. Environmental compensation may be deposited by the defaulting States in terms of our order dated 15.03.2019 with the CPCB.*
- VIII. *Timeline prescribed for reviewing action plans with regard to its report dated 15.07.2019 by the CPCB for further micro planning may be reduced from six months, preferably to four months. CPCB may give appropriate directions to the SPCBs/PCCs accordingly.*
- IX. *CPCB must forthwith come out with a compensation regime within two months for air as well as noise pollution to the extent such norms have not yet been laid down.*
- X. *Having regard to adverse impact on public health and constitutional mandate that right to clean air is a fundamental right, the MoEF&CC may modify the NCAP by reducing the timelines and increasing the target for reduction of air pollution.*
- XI. *Noise Limiters need to be installed on potential noise polluting devices, including retrofitting the existing devices. Appropriate directions be issued by the States/UTs within three months in the same manner as directed by this Tribunal for Delhi vide order dated 01.08.2019 in O.A. No. 519/2016, Hardeep Singh & Ors. vs SDMC & Ors.*
- XII. *The CPCB may also evaluate existing air quality monitoring mechanism of all States and UTs and furnish a report to this Tribunal before the next date in terms of capacity of its scientific and technical personnel both in terms of number of personnel and skill/competence and outreach programmes on public awareness and suggestions for improvement.*
- XIII. *The CPCB and States may have robust Emergency Response System and preparedness by way of mock drills and measures to be taken in the scenario when air pollution levels become severe plus and severe.*
- XIV. *The SPCBs and PCCs to submit details of 'consent' funds to CPCB and this Tribunal within two months alongwith Action Plans on the basis of template provided by CPCB. CPCB may scrutinize and approve such action plans within two months in accordance to our*

order dated 22.01.2019 in O.A. No. 101/2019. Finally, the State PCBs and PCCs may execute their Action Plans within next one year thereafter.

- XV. *The Environmental Compensation levied by State Transport Departments may be divided in the ratio of 50:25:25 amongst the States, the SPCBs/PCCs and the CPCB.”*

Order dated 20.11.2019: Third review of progress – direction to remedy inadequate monitoring and enforcement by strict enforcement of polluter pays principle and steps for accountability by way of adverse ACR entries exploring use of Campa Funds

24. Thereafter, vide order dated 20.11.2019, further progress was reviewed with reference to the directions issued on 6.8.2019 in the light of the report dated 14.11.2019 filed by the CPCB. Since progress achieved was not adequate, further directions were issued on the issues earlier considered as well as the issue of tackling the problem of remediation of legacy waste dump sites which were also a source of air pollution, adversely affecting public health. Directions issued in the said order are:

“29. In view of above, we direct as follows:

- i) *Let assessed number of stations be installed within one year and quarterly progress reports furnished to CPCB by all the SPCBs/PCCs. First such report may be furnished by 01.04.2020. All such stations should be connected to the server of the CPCB and data displayed at the national portal on online real-time basis with AQI in public domain. CPCB may have its own stations at such critical locations as considered necessary. All the 12 notified parameters should be duly monitored by the CAAQMS. In default of compliance, SPCB/PCCs will be liable to pay compensation @Rs. 5 Lakh per month starting from 01.01.2021. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs.*

Procurement of such equipments may preferably be through Government E-marketing (GeM) Portal of Govt. of India. CPCB may take steps to have standards/specifications and accredited/reputed vendors notified on the said portal. CEO, GeM, may also take necessary steps in the matter.

- ii) *Let SA and CC be completed within three months by the SPCBs/PCCs utilizing available data, based on which MoEF&CC may take further follow up action in terms of direction para II of order dated 06.08.2019 quoted above. SPCBs/PCCs may furnish action taken report to CPCB so*

that CPCB can file an appropriate report before this Tribunal. For any default, compensation will be liable to be paid @ of Rs. 5 lakh per month after 01.04.2020. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs. MoEF&CC may file compliance report before the next date.

- iii) The review of master plans may now be carried out in the light of the studies within six months from the date of such studies in above terms. Mechanism for shifting industrial units from residential areas may be evolved immediately. Let both these aspects be complied by the all the States/UTs and reports furnished to the CPCB. The Chief Secretaries concerned may monitor compliance. In default, the concerned States/UTs will be liable to pay compensation @ Rs. 5 lakhs per month after the stipulated timeline already mentioned. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the concerned Heads of the Departments. The CPCB may prepare a comprehensive report and furnish the same before the next date.*
- iv) PGRPs may be developed for the remaining NACs and report furnished by the SPCBs/PCCs to CPCB within two months. In default, SPCBs/PCCs concerned will be liable to pay compensation @ Rs. 2 lakhs per month from 01.02.2020. CPCB may file a compliance report. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs.*
- v) Compliance may also be ensured for the remaining cities and report furnished to CPCB by the States/UTs by 31.01.2020. In default, compensation will be liable to be paid @ Rs. 10 lakhs per month from 01.02.2020. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the Heads of the Departments concerned.*
- vi) Let the approved action plans be executed accordingly in terms of the timeline provided therein and compliance report furnished by Chief Secretaries of the concerned States/UTs to CPCB on quarterly basis starting from 01.04.2020. CPCB may file compliance report before this Tribunal. Failure on this regard may be visited with adverse consequences.*
- vii) Let the States/UTs ensure compliance of directions with regard to the remaining cities in terms of observations in Para 18 within by 30.06.2020. In default, the States/UTs will be liable to pay @ Rs. 5 lakhs per month till compliance. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the concerned Heads of the Departments.*
- viii) Let the NCAP be revisited in terms of observations in Para 20 before the next date, failing which the Tribunal have no*

option except to take coercive measures against concerned officers.

- ix) Let the directions for control of noise pollution be complied with in terms of observations in Para 21 and report furnished to CPCB by 31.03.2020. CPCB may furnish a comprehensive report to this Tribunal. If the said direction is not complied with, the defaulting States/UTs will be liable to pay compensation @ Rs. 2 lakhs per month which may be collected by the CPCB and recovered from the salary of the concerned Heads of the Departments.*

Procurement of requisite equipments may preferably be through Government E-marketing (GeM) Portal of Govt. of India. CPCB may take steps to have standards/specifications and accredited/reputed vendors notified on the said portal. CEO, GeM, may also take necessary steps in the matter.

- x) Let the evaluation of monitoring stations be done positively by 31.12.2019 in terms of observations in Para 22 and a compliance report filed before the next date. As already directed, the evaluation should not only be sound in terms of scientific and technical capacity but also effectiveness of the outreach programme.*
- xi) Let the steps for ERS be taken as per observations in Para 23 and compliance report filed before the next date. The States have not given their response which may now positively be done within one month, failing which the Tribunal have no option except to take coercive measures against concerned officers.*
- xii) The Chhattisgarh State PCB is directed to take remedial steps and modify its action plan on the subject of EC and Consent funds in terms of instructions of CPCB and direction of this Tribunal. Fresh action plan may be furnished to CPCB by 31.01.2020. We also disapprove the inaction by other SPCBs/PCCs in not complying with the directions. All other SPCBs/PCCs may give their action plans latest by 31.01.2020. In default, the erring SPCBs/PCCs will be liable to pay environmental compensation @ Rs. 5 lakhs per month till compliance of the directions which may be liable to be recovered from the concerned Chairmen and Member Secretaries. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs. CPCB may file a consolidated report on the subject before the next date.*
- xiii) It needs to be explored by the MoEF&CC and concerned States/UTs whether a part of CAMPA funds can be utilized for special afforestation drive in 122 NACs. If so, further necessary action be taken and a report furnished to this Tribunal by the MoEF&CC before the next date.*
- xiv) Apart from other steps, focused attention may be required to ensure bio-remediation of legacy waste dump sites for which*

this Tribunal has already issued exhaustive directions in O.A. No. 519/2019 as already noted in para 9 above.

- xv) With regard to finalization of Emergency Response System (ERS), we are of view that the State Disaster Management Authorities in coordination with the SPCBs/PCCs and State Units of Meteorological Departments may include emergency as a part of disaster management and develop ERS accordingly which may be placed in public domain.*
- xvi) The States/UTs which are able to successfully control air pollution in measurable terms in respect of 122 NACs may place their successful models and best practices on their respective websites for the benefit of others.”*

Order dated 21.08.2020: Fourth Review of progress in actions plans for control of air and noise pollution in terms of earlier directions in the light of report about compliance status

Major deficiencies in compliance status found and further directions issued: inadequate monitoring stations, lack of SA and CC studies, lack of micro planning, inadequate procurement of equipments for control of noise, lack of adequate initiatives in remedying legacy waste sites, lack of coordination with disaster management authorities to prevent environmental disasters – remedial directions

25. The matter was last considered on 21.08.2020 in the light of reports of CPCB dated 06.03.2020, 21.07.2020 and report dated 18.08.2020 of the MoEFF&CC, declining to reduce time for abating air pollution under NCAP and two reports dated 06.03.2020 and 15.07.2020 filed by the Oversight Committee for compliance of environment issues for the State of UP, headed by Justice SVS Rathore, former Judge of the Allahabad High Court at Lucknow.²¹ The Tribunal reviewed the progress pointwise and also considered report of Ministries of Road Transport & Highways and Urban Development dated 16.06.2020 with reference to order in OA 773/2018 on overlapping issue. The operative part of the order containing directions on consideration of all the issues is as follows:

“I. Directions:

²¹ Constituted Vide order dated 16.03.2020, OA 670/2018, Atul Singh Chauhan v. Ministry of Environment, Forests and Climate Change & Ors.

30. In view of the above, the directions are summed up as follows:

- i. The work of completing remaining 175 monitoring stations needs to be expeditiously completed within next six months. Work in this regard may commence within one month, which may be monitored by the CPCB, by holding periodical online meetings with the Chairman/Member Secretaries of State PCBs/PCCs or other authorities. The funds available under the 'consent mechanism'/ 'environmental compensation' may be utilized for the purpose by the State PCBs/PCCs. It will be preferable that out of the above, 25 stations are set up by CPCB/ State PCBs/PCCs jointly (with CPCB financing out of its EC funds), following an appropriate procedure to ensure best price and quality;
- ii. Carrying Capacity and Source Apportionment studies may be simultaneously undertaken by the State PCBs/PCCs, utilizing the 'consent mechanism'/ 'environmental compensation' fund. Work in this regard may commence within one month and completed in six months. State PCBs/PCCs will be at liberty to either undertake the study in-house or by hiring any other agencies. However, as far as possible a uniform policy may be adopted in this regard which may be finalized by the CPCB in consultation with all State PCBs/PCCs in same manner as in direction i. It will be preferable that 25 such studies are conducted jointly by CPCB/ State PCBs/PCCs (with CPCB financing out of its EC Funds) to set a pattern;
- iii. Let further steps of prohibiting/ shifting polluting activities which are found unsustainable/non-conforming and beyond carrying capacity of NACs, as a consequence of SA/CC Studies or otherwise, to other locations, in the interest of public health and protection of environment to give effect to 'Sustainable Development' principle be taken by the States/UTs;
- iv. The States may take further steps to set up and operate PGRPs expeditiously, within three months. The CPCB as well as State PCBs/PCCs may evaluate functioning of such portals on real time basis in the direction of protection of environment. In particular analysis may be undertaken about the number of complaints received, effective steps for redressal taken and improvement achieved and planned. Such exercise may be ongoing but in the first instance may be compiled as on 31.12.2020 and report filed by the State PCBs/PCCs with the CPCB within one month thereafter;
- v. Action plans for newly added 20 NACs be completed expeditiously on the pattern of such plans for 102 cities, already prepared;
- vi. All the concerned States/UTs may execute action plans, including control of stubble burning, where ever necessary and bursting polluting and noise generating fire crackers and give information about the status of compliance of action plans as on 31.12.2020 to CPCB

before 15.1.2021. They may also give information in a tabulated form about the extent of improvement achieved, if any, in terms of reduction in pollution load. Steps in terms of action plans completed, actions ongoing and actions incomplete;

- vii. Detailed micro level planning be undertaken in respect of each NAC by the concerned State/UT expeditiously and status as on 31.12.2020 be furnished to the CPCB within one month thereafter;*
- viii. The States/UTs may address the gaps communicated by the CPCB with respect to the action plans for control of noise pollution and the States/UTs which have not yet furnished their action plans may do so positively by 31.12.2020. Compensation regime for violations of noise pollution be applied by all the States/UTs;*
- ix. We find that NCAP for reduction of air pollution does not fully meet the mandate of sustainable development. Violation of laid down air pollution levels resulting in large number of deaths and diseases needs to be addressed expeditiously. Targeted time of reduction of pollution loads needs to be reduced and planned steps need to be sternly implemented on the ground. MoEF&CC may take further action as per law in the light of observations in para 19 above.*

The States may utilize CAMPA funds, undertaking special afforestation drives in forest lands or other permissible locations in 122 NACs as per CAF Act, 2016 to abate pollution in the said cities. The CEO of CAMPA may hold a video conferencing with all the States PCBs/PCCs to coordinate and facilitate the utilization of CAMPA Funds;

- x. Let all the States/UTs take further action for procurement of equipments and taking other steps for control of noise pollution in 122 NACs as discussed in para 20 above and direction (viii) above, including applying compensation regime prepared by the CPCB and file their respective reports of status of compliance as on 31.12.2020 by 15.1.2021;*
- xi. Let further steps be taken by all the States/UTs to finalise ERSs in terms of suggestion of the CPCB as quoted above in para 24, constituting a suitable mechanism similar to Task Force under GRAP for Delhi-NCR and information furnished to the CPCB by 31.12.2020;*
- xii. let further steps be taken to plan utilisation of consent/EC funds by all the State PCBs/PCCs in the light of order of this Tribunal on the subject dated 24.07.2020 in O.A. No. 102/2019, Ashish Kumar Dixit v. State of Uttar Pradesh & Ors by 31.12.2020. It will be preferable that MoEF&CC with assistance of CPCB lays down an institutional mechanism on the pattern of CAMPA or otherwise for proper utilization of consent and EC funds available with CPCB/State PCBs/PCCs.*
- xiii. Let CPCB issue a fresh direction with regard to the remediation of legacy waste sites in the light of*

deficiencies noticed by the CPCB and coordinate further action with the concerned Urban Development /Local Bodies/PCBs/PCCs/Municipal Corporations. At least one site may be remediated and made a model of compliance in each of the 122 NACs. Where ever legacy waste sites remediation has not commenced, it may commence earliest having regard to the fact that timeline under statutory rules to complete such action is 7.4.2021 and continued delay is detrimental to public health and environment. Information of compliance status as on 31.12.2020 be furnished to CPCB in terms of observations in para 24 above;

- xiv. All the States/UTs and PCB/PCCs may take steps to coordinate with the State Disaster Management Authorities and Meteorological Departments. The observations of this Tribunal while dealing with the problem of frequent environmental disasters in order dated 23.07.2020 in OA 134/2020, News Item published on 13.07.2020 in daily "India Today" titled "Massive fire engulf Vizag chemical plant, explosions heard, injuries reported" may also be taken into account. Action taken reports be filed with the CPCB for submission of consolidated report to this Tribunal;
- xv. MoRTH may take further prompt action of undertaking carrying capacity studies with regard to road infrastructure, specially in 122 NACs, through Central Road Research Institute or any other agency which may be financed by CPCB out of compensation funds or otherwise. On that basis, proper policies be prepared to deal with the number of vehicles beyond parking capacity or carrying capacity and permitting entry or registration of number of vehicles, parking areas etc. This is necessary to reduce congestion, unregulated parking and air pollution loads in 122 NACs. CPCB may coordinate with the concerned Ministries and acquaint this Tribunal with the outcome in its next report;
- xvi. The recommendations of the Oversight Committee for the State of UP, in its report dated 15.07.2020, need serious consideration and action by the concerned authorities in the State of UP. The Chief Secretary, UP may ensure further action in the State at different levels which may be coordinated and overseen by the Monitoring Committee. The oversight Committee may give its further independent report to this Tribunal before the next date by e-mail;
- xvii. In view of continued violation of law on significant environmental issues, to give effect to rule of law and Constitutional mandate of clean environment and for protection of public health and environment, monitoring must be done at the level of Chief Secretaries at least once in a month and the Chief Secretaries must have environment cells attached to their offices, as earlier directed by the Hon'ble Supreme Court and this Tribunal in OA 606/2018;
- xviii. CPCB may file its consolidated report by email by January 31, 2021."

V. Consolidated Report of CPCB dated 05.04.2021 with regard to compliance status of directions dated 21.8.2020

26. Accordingly, CPCB has filed its further consolidated report on 05.04.2021 in continuation of earlier reports dated 09.11.2020 and 15.02.2021 mentioning the pointwise status as follows:

“i. The work of completing remaining 175 monitoring stations needs to be expeditiously completed within next six months. Work in this regard may commence within one month, which may be monitored by the CPCB, by holding periodical online meetings with the Chairman/Member Secretaries of State PCBs/PCCs or other authorities. The funds available under the ‘consent mechanism’ /environmental compensation’ may be utilized for the purpose by the State PCBs/PCCs. It will be preferable that out of the above, 25 stations are set up by CPCB/State PCBs/PCCs jointly (with CPCB financing out of its EC funds), following an appropriate procedure to ensure best price and quality;

As per the Direction of Hon’ble NGT, 20 new Continuous Ambient Air Quality Monitoring Stations (CAAQMS) have been installed in non-attainment cities during the period and as on date 193 CAAQMS installed in non-attainment cities. Other states are in process of installation of the monitoring station as per the criteria and information is being collected by CPCB.

The proposal for setting up of 25 CAAQM Stations in Non-Attainment Cities has been approved under EC funded project for Rs. 25 crores by CPCB. Capital cost Rs. 1 crore per station has been sanctioned to 20 States/Uts for installation of CAAQM Stations in the identified 25 Non-Attainment cities (ANNEXURE -I). The Operation & Maintenance cost shall be borne by respective SPCB/PCC. Sanction letter has been issued to respective SPCBs for signing of TOR to release funds.

ii. Carrying Capacity and Source Apportionment studies may be simultaneously undertaken by the State PCBs/PCCs, utilizing the ‘consent mechanism’ I ‘environmental compensation’ fund. Work in this regard may commence within one month and completed in six months. State PCBs/PCCs will be at liberty to either undertake the study in-house or by hiring any other agencies. However, as far as possible a uniform policy may be adopted in this regard which may be finalized by the CPCB in consultation with all State PCBs/PCCs in same manner as in direction i. It will be preferable that 25 such studies are conducted jointly by CPCB/State PCBs/PCCs (with CPCB financing out of its EC Funds) to set a pattern;

As per information provided by states, Source Apportionment (SA) study is Completed in 09 States (14 cities); under progress in 15

States (68 cities); and in proposal stage in 14 States (40 cities). The detail status is enclosed at ANNEXURE -II.

Carrying capacity (CC) study is under progress in 9 States (42 cities); and in proposal stage in 18 States (51 cities). The detail status is enclosed at ANNEXURE -III.

CPCB requested SPCBs/PCCs to propose the name of the 2-3 cities from their respective states for joint SA and CC studies. 25 non-attainment cities are identified, based on the criteria developed by CPCB and in concurrence with SPCBs/PCCs. These studies shall be done based on framework/ methodology prepared by CPCB by using CPCB EC Funds. The list of identified cities is enclosed at ANNEXUREIV.

iii. Let further steps of prohibiting/shifting polluting activities which are found unsustainable/non-conforming and beyond carrying capacity of NACs, as a consequence of SA/CC Studies or otherwise, to other locations, in the interest of public health and protection of environment to give effect to ‘Sustainable Development’ principle be taken by the States/UTs;

Status for steps of prohibiting/ shifting polluting activities which are found unsustainable/ non-conforming and beyond carrying capacity of NACs is provided by 22 states/UTs (Jammu & Kashmir, Uttarakhand, Telangana, Delhi, West Bengal, Punjab, Uttar Pradesh, Himachal Pradesh, Andhra Pradesh, Karnataka, Maharashtra Chhattisgarh, Meghalaya, Madhya Pradesh, Nagaland, Bihar, Assam, Rajasthan, Tamilnadu, Chandigarh, Odisha and Gujarat). Jharkhand has provided action point regarding shifting of polluting industries in city action plan. The detail status is enclosed at ANNEXURE -V

Karnataka, Tamilnadu, Andhra Pradesh, Himachal Pradesh, Maharashtra, Chhattisgarh, West Bengal, Assam, Punjab, Chandigarh, SPCBs/PCCs have informed that the “steps of prohibiting/shifting polluting activities which are found unsustainable/non-conforming and beyond carrying capacity of NACs, as a consequence of SA/CC Studies or otherwise, to other locations, in the interest of public health and protection of environment to give effect to ‘Sustainable Development’ principle” will be done after completion of SA and CC studies.

Uttar Pradesh SPCB informed that a letter regarding shifting / prohibiting the industries in the non-conforming areas had been issued from the office of Principal Secretary, Environment, Forest & climate Change, to the Additional Chief Secretaries/ Principal Secretaries of the all the concerned departments and a meeting of Oversight Committee was held on 21.12.2020, wherein various steps has been proposed like constituted District level Committee and other nodal departments from mapping and closure of non-conforming areas and Ensuring scrutinization and geotagging of the electricity connections to prevent reissuing of electric connections to the illegal units.

Rajasthan SPCB informed that the work is not related to the state board.

iv. The States may take further steps to set up and operate PGRPs expeditiously, within three months. The CPCB as well as State PCBs/PCCs may evaluate functioning of such portals on real time basis in the direction of protection of environment. In particular analysis may be undertaken about the number of complaints received, effective steps for redressal taken and improvement achieved and planned. Such exercise may be ongoing but in the first instance may be compiled as on 31.12.2020 and report filed by the State PCBs/PCCs with the CPCB within one month thereafter;

The Public Grievance Redressal Portal (PGRPA) on the pattern of Sameer app for Non-attainment cities is developed by 15 States (Uttarakhand, Jammu & Kashmir, Gujarat, Rajasthan, Meghalaya, Maharashtra, Madhya Pradesh, Himachal Pradesh, Andhra Pradesh, Telangana, Uttar Pradesh, West Bengal, Odisha, Punjab and Delhi) & the same is under development in 3 States (Tamilnadu, Nagaland & Chandigarh). Dedicated helpline numbers/web portal to address grievances are provided by 7 States (Assam, Chhattisgarh, Jharkhand, Karnataka, Nagaland, Tamilnadu, & Bihar). The details along with the redressal status are enclosed at ANNEXURE- VI

With regard to complain redressal status detail provided by Delhi, Himachal Pradesh, Madhya Pradesh and Uttar Pradesh is given below:

S. No.	State	Status of Complaints		
		No. of Complaints received	Effective steps	Remarks
1.	Delhi	4624	2764 complaints resolved (60 %)	Between 07.10.2020 to 31.12.2020 (2 PM) in Delhi-NCR region
2.	Himachal Pradesh	28	26 complaints resolved (93 %)	From 01.04.2020 to 31.12.2020
3.	Madhya Pradesh	20	No information provided	Till 14.12.2020
4.	Uttar Pradesh	59	57 complaints resolved (97 %)	Between June 2020 08.01.2021
5.	Gujarat	No complaints received till date		

West Bengal SPCB informed that the details of complaints received on portal will be submitted shortly.

No information is provided by 17 states (Andhra Pradesh, Assam, Chandigarh, Chhattisgarh, Jammu & Kashmir, Jharkhand, Karnataka, Maharashtra Meghalaya, Nagaland, Odisha, Punjab,

Rajasthan, Tamilnadu, Telangana, Uttarakhand and Bihar, regarding Status of Complaints on Public Grievance Redressal Portal.

v. Action plans for newly added 20 NACs be completed expeditiously on the pattern of such plans for 102 cities, already prepared;

As per Hon'ble NGT order of O.A. No. 681/2018 and criteria finalized by CPCB for categorizing non-attainment cities. **List of non-attainment cities has been updated by CPCB based on data for the period of 2015-2019 on 21.10.2020 and 02 more cities namely Gorakhpur in Uttar Pradesh and Madurai in Tamilnadu added to the list. The total 124 non-attainment cities identified based on air quality data for the period of 2015-2019.**

Out of total 22 newly added NACs, 21 city action plans, West Bengal (Asansol, Barrackpore, Durgapur, Haldia, Howrah & Raniganj), Odisha (Kalinganagar), Gujarat (Vadodara), Andhra Pradesh (Anantapur, Chittoor, Elum, Kadapa, Ongole, Rajahrundry, Srikakulam & Vizianagaram), Uttarakhand (Dehradun), Tamilnadu (Trichy & Madurai), Uttar Pradesh (Gorakhpur) and Telangana (Sangareddy) are approved for implementation; one city Maharashtra (Thane) was requested to submit revised plans as per the recommendation of the three member committee;

vi. All the concerned States/UTs may execute action plans, including control of stubble burning, where ever necessary and bursting polluting and noise generating fire crackers and give information about the status of compliance of action plans as on 31.12.2020 to CPCB before 15.1.2021. They may also give information in a tabulated form about the extent of improvement achieved, if any, in terms of reduction in pollution load. Steps in terms of action plans completed, actions ongoing and actions incomplete;

Action taken/information received from Delhi, Andhra Pradesh, Tamilnadu, Uttarakhand, Punjab, Himachal Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Bihar, Nagaland, Uttar Pradesh, Chhattisgarh, Odisha, Karnataka and Jammu & Kashmir.

Rajasthan SPCB communicated that this Direction is not related to the State board and Assam PCB informed that there are no issues related to stubble burning.

No information received from other states (Chandigarh, Gujarat, Jharkhand, Meghalaya and Telangana). Details are enclosed at ANNEXURE-VII.

vii. Detailed micro level planning be undertaken in respect of each NAC by the concerned State/UT expeditiously and status as on 31.12.2020 be furnished to the CPCB within one month thereafter;

CPCB prepared a uniform robust format to address micro level activities for the sources covered under city action plans and has been shared with respective SPCBs/PCCs. Detailed and updated submission in the format shall facilitate preparation of micro-level plan as well as streamlined monitoring of implementation of city plans in the city. Such a format shall also aid in transitioning to a dynamic digitized reporting system in future

Micro level planning has been submitted by Uttar Pradesh (Agra, Allahabad, Anpara, Bareilly, Firozabad, Gajraula, Ghaziabad, Jhansi, Kanpur, Khurja, Lucknow, Moradabad, Noida, Meerut, Raebareli and Varanasi), Uttarakhand (Kashipur & Rishikesh), Maharashtra (Akola, Amravati, Aurangabad, Badlapur, Chandrapur, Jalgaon, Jalna, Kolhapur, Latur, Mumbai, Nagpur, Nashik, Navi Mumbai, Pune, Sangli, Solapur, Ulhasnagar, Thane & Vasai-Virar), Andhra Pradesh (Guntur, Kumool, Nellore, Vijayawada & Vishakhapatnam), West Bengal (Kolkata, Asansol, Barrackpore, Durgapur, Haldia, Howrah & Raniganj), Telangana (Hyderabad & Patancheruvu), Himachal Pradesh (Baddi, Damtal, Kala Amb, Nalagarh, Paonta Sahib, Parwanoo & Sunder Nagar), Tamilnadu (Thoothukudi, Trichy, Madurai & Chennai), Chhattisgarh (Bhilai & Raipur), Rajasthan (Jaipur, Jodhpur & Kota), Meghalaya (Byrnihat), Bihar (Patna), Gujarat (Surat, Vadodara & Rajkot), Haryana (Faridabad), Jharkhand (Dhanbad, Jamshedpur & Ranchi), Karnataka (Bengaluru), Madhya Pradesh (Bhopal, Dewas, Indore, Sagar, Ujjain, Gwalior & Jabalpur), Punjab (Ludhiana & Amritsar) and Nagaland (Dimapur & Kohima)

Assam, Karnataka and Punjab SPCB inform that the Micro Planning of Actions of non-attainment city/towns will be done after completion of Source Apportionment and Carrying Capacity Study.

viii. The States/UTs may address the gaps communicated by the CPCB with respect to the action plans for control of noise pollution and the States/UTs which have not yet furnished their action plans may do so positively by 31.12.2020. Compensation regime for violations of noise pollution be applied by all the States/UTs;

A Separate report will be filed to Hon'ble NGT against the Direction by CPCB.

ix. We find that NCAP for reduction of air pollution does not fully meet the mandate of sustainable development. Violation of laid down air pollution levels resulting in large number of deaths and diseases needs to be addressed expeditiously. Targeted time of reduction of pollution loads needs to be reduced and planned steps need to be sternly implemented on the ground. MoEF&CC may take further action as per law in the light of observations in para 19 above. The States may utilize CAMPA funds, undertaking special afforestation drives in forest lands or other permissible locations in 122 NACs as per CAF Act, 2016 to abate pollution in the said cities. The CEO of CAMPA may hold a video conferencing with all the States PCBs/PCCs to coordinate and facilitate the utilization of CAMPA Funds;

x. Let all the States/UTs take further action for procurement of equipments and taking other steps for control of noise pollution in 122 NACs as discussed in para 20 above and direction (viii) above, including applying compensation regime prepared by the CPCB and file their respective reports of status of compliance as on 31.12.2020 by 15.1.2021;

A Separate report will be filed to Hon'ble NGT against the Direction by CPCB.

xi. Let further steps be taken by all the States/UTs to finalise ERSs in terms of suggestion of the CPCB as quoted above in para 24, constituting a suitable mechanism similar to Task Force under GRAP for Delhi-NCR and information furnished to the CPCB by 31.12.2020;

*The Emergency Response System (ERS) – GRAP for Non-attainment cities is developed/part of action plan by 15 states (Jammu & Kashmir, Himachal Pradesh, Uttar Pradesh, Andhra Pradesh, Punjab, Chandigarh, Delhi, Bihar, Tamilnadu, Odisha, Nagaland, Gujarat, Maharashtra, Meghalaya and Telangana) and development is under process in 03 states (Uttarakhand, Rajasthan (for Alwar city ERS prepared) and Assam). GRAP is being prepared in **Chhattisgarh**.*

For Madhya Pradesh GRAP is prepared for Indore, Bhopal, Gwalior & Jabalpur (GRAP development under process in Dewas, Sagar & Ujjain), for Jharkhand GRAP is prepared for Ranchi & Jamshedpur (no information is available for Dhanbad), for West Bengal GRAP is prepared for all cities except Kolkata, for Karnataka GRAP is prepared for Bengaluru (no information is available for Devanagere, Gulbarga and Hubli-Dharwad),

As informed by Karnataka SPCB, Proposal is being sent to Revenue Dept., Govt. of Karnataka to include MS, KSPCB as a member of Disaster Management Authority. The details are enclosed at ANNEXURE -VIII.

xii. let further steps be taken to plan utilization of consent/EC funds by all the State PCBs/PCCs in the light of order of this Tribunal on the subject dated 24.07.2020 in O.A. No. 102/2019, Ashish Kumar Dixit v. State of Uttar Pradesh & Ors by 31.12.2020. It will be preferable that MoEF&CC with assistance of CPCB lays down an institutional mechanism on the pattern of CAMPA or otherwise for proper utilization of consent and EC funds available with CPCB/State PCBs/PCCs.

As per the direction of Hon'ble NGT order O.A. No. 681/2018 dated 20.11.2019, a Committee is constituted in CPCB to review and approve the Action Plans for utilization of consent funds. 01st meeting of the Committee was convened on 13-02- 2020 and action plans received from 14 SPCBs/PCCs were discussed in detail. The

Committee proposed that revised action plans as per the templates proposed by CPCB may be submitted.

The 2nd Meeting of the Committee was convened on 07.08.2020 to review the action plans received from 07 State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) namely Assam, Chandigarh, Chhattisgarh, Himachal Pradesh, Jammu & Kashmir, Meghalaya and Punjab. All the seven plans were placed before the Committee for consideration and approval. The Committee examined these action plans and action plans of Chandigarh PCC, Chhattisgarh Environment Conservation Board, Himachal Pradesh SPCB, Jammu & Kashmir PCB and Punjab SPCB were approved.

A meeting was convened on 15-01-2021 through Video Conferencing under the Chairmanship of Dr. Prashant Gargava, MS-CPCB with the State Pollution Control Boards (SPCBs)/ Pollution Control Committee (PCCs) to discuss the action plans and proposed the following:

- 1. SPCBs/PCCs shall prepare and submit Action Plans in line with orders of Hon'ble NGT, state specific requirements & priorities and effective utilization of funds before 31st January 2021 to CPCB;*
- 2. SPCBs/PCCs shall provide the Annual collection of Consent and Environmental Compensation (EC) Funds to CPCB;*
- 3. SPCBs/PCCs shall clearly specify the availability of Consent and Environmental Compensation Funds for execution of Action plans;*
- 4. Action Plans for utilization of Consent and EC Funds shall be as per the Template provided by the Hon'ble NGT addressing the priority issues of SPCBs;*
- 5. State level Committee shall be constituted for approval of action plans before submitting to CPCB and ;*
- 6. Monitoring mechanism may be developed for execution of action plans by SPCBs/PCCs.*

Meeting of the Committee for Utilization of Environmental Compensation (EC) Funds was convened on 18.02.2021 to review the action plans received from State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) in compliance of the Hon'ble NGT order O.A. No. 102/2019 dated 24.07.2020.

The Committee examined in detail the action plans received from 16 SPCBs and 03 PCCs, summary recommendations are given below:

- Andaman & Nicobar, Assam, Jammu & Kashmir, Meghalaya, Mizoram, Nagaland and Puducherry SPCBs/PCCS does not have sufficient EC funds for execution of action plans*
- Andhra Pradesh, Chandigarh and Sikkim have submitted action plans for more than the cost of EC Funds availability;*
- The Action plan for Himachal Pradesh SPCB has already been approved by the Committee in the meeting held on 07.08.2020;*

- Kerala, Rajasthan and Tamil Nadu SPCBs have submitted action plans only for a part of Utilization of EC funds. Therefore, plans may be revisited;
- Odisha SPCB has submitted common action plan for O.A No. 681/2018 and 102/2019. Also availability of EC fund is not provided; and
- Action plans received from Bihar SPCB, Chhattisgarh ECB, Gujarat SPCB and Madhya Pradesh SPCB were approved by the Committee for execution:

xiii. Let CPCB issue a fresh direction with regard to the remediation of legacy waste sites in the light of deficiencies noticed by the CPCB and coordinate further action with the concerned Urban Development /Local Bodies/PCBs/PCCs/Municipal Corporations. At least one site may be remediated and made a model of compliance in each of the 122 NACs. Where ever legacy waste sites remediation has not commenced, it may commence earliest having regard to the fact that timeline under statutory rules to complete such action is 7.4.2021 and continued delay is detrimental to public health and environment. Information of compliance status as on 31.12.2020 be furnished to CPCB in terms of observations in para 24 above;

As per the order of Hon'ble NGT, CPCB has issued direction on dated 27.01.2021 to all SPCBs/PCCs on following:

1. SPCBs/PCCs to provide complete list of Legacy Waste dumpsites in their States/UTs as per format enclosed.
2. SPCB/PCCs to ensure that necessary action for bio-mining and bio-remediation of these dumpsites is done by the concerned Local Authorities in compliance with Provisions of SWM Rules, 2016
3. SPCBs/PCCs shall ensure that concerned Local Authorities engaged in the biomining process of legacy waste follow procedures as per CPCB Guidelines for Disposal of Legacy Waste with specific compliance to the following points:
 - i. Analysis of various screened fraction materials i.e. RDF, fine earth/bio earth etc., prior to its disposal/utilization
 - ii. Preparation of plan for utilization/ disposal of screened fractions
 - iii. Adequate provisions for leachate treatment.
 - iv. Maintenance of records / documents for disposal/utilization of the RDFs or fine earth and other materials.
4. SPCBs/PCCs shall ensure that the local bodies prepare time targeted Action Plan for bio-mining/ bio-remediation of these dumpsites in compliance with points listed above. The timelines as specified in SWM Rules, 2016 and Hon'ble NGT Directions on the matter are to be adhered to for remediation of these sites.
5. SPCBs/PCCs to ensure that no fresh waste is disposed at these dumpsites and local authorities make proper arrangement for management of fresh solid waste

6. SPCB to ensure that at least one legacy waste dumpsite is remediated in their jurisdiction which can be considered as model for compliance for other legacy waste dumpsites in Non-Attainment Cities (NAC).

Copy of the direction issued on 27.01.2021 is enclosed at ANNEXURE-IX and status of information provided by SPCBs/PCCs for the direction is enclosed at ANNEXURE-IX-A.

xiv. All the States/UTs and PCB/PCCs may take steps to coordinate with the State Disaster Management Authorities and Meteorological Departments. The observations of this Tribunal while dealing with the problem of frequent environmental disasters in order dated 23.07.2020 in OA 134/2020, News Item published on 13.07.2020 in daily "India Today" titled "Massive fire engulf Vizag chemical plant, explosions heard, injuries reported" may also be taken into account. Action taken reports be filed with the CPCB for submission of consolidated report to this Tribunal;

The Emergency Response System (ERS) – GRAP for Non-attainment cities is developed/part of action plan by 15 states (Jammu & Kashmir, Himachal Pradesh, Uttar Pradesh, Andhra Pradesh, Punjab, Chandigarh, Delhi, Bihar, Tamilnadu, Odisha, Nagaland, Gujarat, Maharashtra, Meghalaya and Telangana) and development is under process in 03 states (Uttarakhand, Rajasthan (for Alwar city ERS prepared) and Assam). GRAP is being prepared in Chhattisgarh.

For Madhya Pradesh GRAP is prepared for Indore, Bhopal, Gwalior & Jabalpur (GRAP development under process in Dewas, Sagar & Ujjain), for Jharkhand GRAP is prepared for Ranchi & Jamshedpur (no information is available for Dhanbad), for West Bengal GRAP is prepared for all cities except Kolkata, for Karnataka GRAP is prepared for Bengaluru (no information is available for Devanagere, Gulburga and Hubli-Dharwad),

As informed by Karnataka SPCB, Proposal is being sent to Revenue Dept., Govt. of Karnataka to include MS, KSPCB as a member of Disaster Management Authority. The details are enclosed at ANNEXURE -VIII.

A communication is received from Govt. of Uttar Pradesh for issuance of the required guidelines in the matter through National Disaster Management Authority (NDMA). CPCB also communicated to NDMA for necessary actions in this regard.

The compliance status received from the various SPCBs/PCCs on steps to coordinate with the State Disaster Management Authorities and Meteorological Departments is enclosed at ANNEXURE-X.

xv. MoRTH may take further prompt action of undertaking carrying capacity studies with regard to road infrastructure, specially in 122 NACs, through Central Road Research Institute or any other agency which may be financed by CPCB out of compensation funds or otherwise. On that basis,

proper policies be prepared to deal with the number of vehicles beyond parking capacity or carrying capacity and permitting entry or registration of number of vehicles, parking areas etc. This is necessary to reduce congestion, unregulated parking and air pollution loads in 122 NACs. CPCB may coordinate with the concerned Ministries and acquaint this Tribunal with the outcome in its next report;

Communication was sent by CPCB vide letter dated 07.10.2020 and 24.11.2020 to MoRTH to take the matter on priority and provide the cost of the aforesaid study, for consideration of CPCB. Letter enclosed at ANNEXURE-XI.

Ministry of Road Transport & Highways in its Office Memorandum No. RT16025/2/2019-T dated 21.12.2020 (ANNEXURE-XII), stated that, "as per Government of India (Allocation of Business) Rules 1961, subject matter of the 'Planning and Coordination of Urban Transport systems is allocated to the Ministry of Housing and Urban Affairs (MoHUA). Further, MoHUA has already entrusted the task of formulating methodology for assessment of Carrying Capacity to M/s Urban Mass Transit Company Ltd (UMTC).

The scope of the study being undertaken by MoHUA already covers the carrying capacity studies with regard to road infrastructure, and may be extended to 122 NACs, in compliance of the Hon'ble NGT order dated 21.08.2020."

Further, CPCB vide letter dated 13.01.2021, requested to MoHUA to take the matter on priority and provide the requirement of the funds, if any on aforesaid study, for consideration of CPCB and compliance status on the Hon'ble NGT direction.

In reference to the MoRTH Office Memorandum No. RT-16025/2/2019-T dated 21.12.2020 (ANNEXURE-XII), MoHUA, issued an Office Memorandum vide O.M. No. K-14011/23/2018-UT-I dated 20.01.2021 (ANNEXURE-XIII), wherein MoHUA stated that "the stand/contention of MoRTH is not correct and is also not in line with the facts/developments of the case" and various views are provided. It is also stated that the directions of the Hon'ble NGT in the Order dated 21.08.2020 are categorical, case specific and with reference to MoRTH's functions and mandate for framing of policies regarding road infrastructure, framing of proper policies. Accordingly, the directions of the Hon'ble NGT in their order dated 21.08-2020 are for compliance and necessary action by MoRTH and they may consider filing compliance report/ appropriate submissions before the Hon'ble NGT.

xvi. The recommendations of the Oversight Committee for the State of UP, in its report dated 15.07.2020, need serious consideration and action by the concerned authorities in the State of UP. The Chief Secretary, UP may ensure further action in the State at different levels which may be coordinated and overseen by the Monitoring Committee. The oversight Committee may give its further independent report to this Tribunal before the next date by e-mail;

Information to be submitted by Uttar Pradesh separately.

xvii. In view of continued violation of law on significant environmental issues, to give effect to rule of law and Constitutional mandate of clean environment and for protection of public health and environment, monitoring must be done at the level of Chief Secretaries at least once in a month and the Chief Secretaries must have environment cells attached to their offices, as earlier directed by the Hon'ble Supreme Court and this Tribunal in OA 606/2018;

The environment cell is prepared by 11 states (Jammu & Kashmir, Chhattisgarh, Himachal Pradesh, Madhya Pradesh, Maharashtra, Punjab, Odisha, Tamilnadu, Nagaland, West Bengal and Uttar Pradesh) and status not available for 13 states (Andhra Pradesh, Chandigarh, Delhi, Gujarat, Jammu & Kashmir, Jharkhand, Karnataka, Meghalaya, Rajasthan, Telangana, Uttarakhand, Bihar and Assam). Details of development of environment cell are enclosed at ANNEXURE-XIV.”

27. Separate report on the subject of control of noise pollution gives the gap analysis as follows:

“3.0 GAP ANALYSIS

As per Hon'ble NGT Directions dated 15.03.2019 and 15.11.2019, action Plan submitted by States/UTs are analysed on the basis of following points:

- i. Noise level monitoring in conjunction with the Police Department and take remedial action.*
- ii. Police Departments of all the States/UTs may obtain the Noise monitoring devices within a period of three months.*
- iii. Police Department of all the States/UTs may also train their staff regarding the use of such devices.*
- iv. Police Department of all the States/UTs may develop a robust protocol for taking appropriate action against the defaulters.*
- v. Use of Sound Limiter(s) in all sound system/public address system for effective control of Noise Pollution.*

Accordingly, action plans submitted by 30 States/UTs were assessed based on its adequacy in addressing above-mentioned points. Detailed assessment of action plan is attached as Annexure-XLVI.

Following are the major observations based on the assessment:

- i. 10 States/UTs (Delhi, Tripura, Bihar, West Bengal, Karnataka, Kerala, Gujarat, Jammu and Kashmir, Sikkim, Uttar Pradesh) have addressed all the five action points as listed above in their action plans.
- ii. 20 States/UTs (Andhra Pradesh, Andaman & Nicobar, Arunachal Pradesh, Assam, Chhattisgarh, Chandigarh, Goa, Daman & Diu & Dadra and Nagar Haveli, Himachal Pradesh, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Manipur, Mizoram, Odisha, Pondicherry, Tamil Nadu, Telangana, Uttarakhand) have partially addressed the above-listed action points in their action plans.
- iii. 05 States/UTs namely Haryana, Jharkhand, Nagaland, Punjab, Rajasthan have not submitted any action plan to CPCB.”

VI. Consideration of Report of the Oversight Committee for UP dated 27.03.2021 about compliance status in UP and recommendations for this order

28. We have also considered the report of the Oversight Committee for UP filed on 27.03.2021 in continuation of earlier report dated 12.02.2021, giving the compliance status with reference to directions of this Tribunal in the State of UP showing non-compliances on several issues, in a tabular form. **The Chief Secretary, UP may look into the report of the Oversight Committee and take further remedial action in terms of recommendations therein.**

Separate Report of CPCB re: road dust control and fire crackers

29. The separate CPCB report in pursuance of directions in OA 283/2020 is to the effect that 12 States have initiated some action and made provision **for sprinkling of water to suppress road dust and to procure mechanical road sweepers** while other States have yet to take action. Report in pursuance of directions in OA 249/2020 is that 23 States had prepared plans **to regulate bursting of fire crackers while other States had yet to take action.**

VII. Current (Fifth) and final review on the subject – Analysis of the CPCB report dated 05.04.2021 for this order

30. The report shows progress under 17 specific heads. With regard to installing 175 monitoring stations, it is stated that 20 new CAAQMs have been installed and 25 approved. SA and CC studies are underway. There is partial progress on shifting polluting activities out of non-conforming areas. PGRPs have been developed by several States and other States have yet to do the same. **Two more cities have been added to the list of NACs** and actions plans for the NACs have been mostly prepared. Status of execution of action plans is not very clear. Micro level planning has been done for some cities. Gaps in plans and execution remain to be addressed. The issue of revising NCAP and CAMPA Funds is still to be addressed. Certain steps have also been taken for control of noise pollution, including procurement of noise monitoring devices and limiters. Emergency response systems have been partly developed. Directions issued for utilizing 'Consent' and 'EC' funds and for bioremediation of legacy waste dump sites. Carrying capacity of road infrastructure to determine parking capacity is being dealt with by the Ministry of Road Transport and Highways and Urban Development Departments. Environment Cells have been set up by some of the Chief Secretaries. **The report does not indicate the reduction in pollution level in any of the NACs as a result of steps so far taken. Similarly, with regard to noise pollution control, no tangible progress has been shown.** Progress on SA and CC studies is highly inadequate. Preventive and remedial measures for stubble burning need to be planned in advance for effective control of pollution. CPCB needs to undertake finger printing and marker/bio-marker pollutant analysis and identify sensitive plant species which will indicate quality of air as well as deleterious effect, if any, along with SA studies. While the

report has stated under heading (ix) that a separate report will be filed on the subjects of modification of NCAP, utilization of CAMPA Funds by undertaking special afforestation drive, no such separate report has been filed.

31. We consider it necessary to comment on some of the subjects needing pointed attention.

Inadequacy of Monitoring Stations

32. To capture the real picture which is essential for further planning and remedial action, sufficient number of monitoring stations have to be established and there has to be atleast one monitoring station in every district, as earlier directed. In this regard, we may refer to earlier order dated 21.08.2020 on consideration of the issue with reference to the data from CPCB report dated 18.08.2020. The Tribunal noted that the said report mentioned that air quality was being monitored manually at 793 locations covering 344 cities/towns in 28 States and 7 Union Territories (UTs) across the country under National Air Quality Monitoring Programme (NAMP) and through real time stations in 219 stations covering 123 cities in 18 States and 2 UTs under Continuous Ambient Air Quality Monitoring. Further, the SPCBs/PCCs are also monitoring ambient air quality manually at 126 locations covering 86 cities/ towns in 13 States under State Air Quality Monitoring Programme (SAQMP). **It was observed that there are 740 Districts in the country and above 4000 cities. It is absolutely necessary that atleast at every District Headquarter in all the 740 Districts, there should be an air quality monitoring station. It was directed that 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. 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 expired on 21.02.2021.**

CC and SA Studies

33. **The progress on the subject is inadequate, though important as in its absence of such studies, further planning and action may be difficult. Hazardous/polluting activities will remain unchecked without proper planning.**

Shifting of polluting activities

34. As already mentioned, in absence of CC and SA studies and master plans, shifting, prohibiting and regulating unsustainable polluting activities remain a challenge.

Effective functioning of PGRPs

35. As per report, 17 States have yet to provide information while effectiveness of functioning of PGRPs has not yet been duly evaluated.

Action Plans for NACs

36. While action plans have been prepared for almost all the NACs and are available on the websites of CPCB as well as State PCBs, timelines in

the action plans are not in consonance with the orders of this Tribunal. For enforcement of rule of law, accountability is required to fixed for every violation of standards of air quality by identifying the violators and taking action in terms of prohibiting polluting activities as well as recovering compensation for the period during which violation continued. If such plan is not prepared to make every violator accountable, there will be failure of the public trust doctrine under which the State Authorities are required to enforce the enacted law. There has to be commitment to the upholding of the air quality standards laid down and taking action for every violation. We are of view that such coercive action for failure against authorities must start atleast from 01.11.2021. Any delay in execution of action plan beyond 01.11.2021 will render the concerned States liable to pay compensation atleast @ Rs. 10 lakhs per month with liberty to recover the amount from the erring officers. Such compensation must be credited to a separate account to be operated by the Chief Secretary of the State and the amount so deposited will be spent for restoration of the environment.

Noise control

37. There are huge gaps in execution of action plans for noise control, including procurement of equipments. Such gaps need to be addressed especially by Police and environment Departments who are entrusted with the responsibility of control of noise under the Noise Pollution (Regulation and Control) Rules, 2000. Atleast from 01.11.2021, the concerned States/heads of police force must be held liable to pay compensation @ Rs. 10 lakhs per month on the same pattern as failure to enforce action plans for control of air pollution.

Afforestation drive utilizing CAMPA Funds

38. Afforestation drive is essential for control of air pollution. Coordination with the CAMPA authorities is required for utilizing the CAMPA funds for the purpose of afforestation, as already directed.

Revamping of State PCBs/PCCs utilizing 'Consent'/'EC' funds

39. According to CPCB report, certain steps have been taken but further steps need to be taken. There is dire need to revamp regulatory authorities by recruiting adequate number of personnel, atleast equal to already sanctioned posts and then reviewing the strength and also by procuring requisite equipments and establishing sufficient labs, using available consent funds.

Issue of Carrying Capacity of the roads through Central Road Research Institute by MoRTH

40. The issue remains unresolved though it is very much necessary for the purpose of planning no vehicle zones, parking capacity and other regulatory measures, including number and nature of vehicles to be allowed in NACs and other air polluted areas.

Monitoring at the level of Chief Secretaries through environment cells

41. The report shows that only 11 States have so far given information. Further action needs to be taken expeditiously.

DATA GRID Needed

42. The data grid for continuous information will go a long way in dealing with the problem. As already noted in Para 20 above, there is need for National, State, District Environmental Data Grids giving the data of air quality. Apart from improving environment, this is necessary to enforce right of the citizens to information about air quality in different areas.

Based on the level of pollution, categories of cities/districts need to be appropriately classified such as 'red', 'orange' and 'green'. Further, based on such data National Air Quality Atlas may be compiled and published on the websites of MoEF&CC, CPCB and State PCBs/PCCs and updated from time to time.

Other inadequacies in addressing challenges : SA and CC studies and further steps for control of Vehicle pollution, vehicle density, industrial pollution, coal-fired industrial activities, Unscientific mining, unplanned development, garbage Dumps, combustions - burning of garbage, crop burning, handling of other waste - plastic, bio-medical waste, dust, environmental disasters

Legacy Waste Sites remediation and other waste management, including biomedical and plastic wastes and burning of crop residue

43. The said work continues to be neglected posing serious threat to the air quality. As per directions already issued on 28.02.2020 in OA 606/2018, compensation may be recovered and utilized for restoration of the environment. The said direction is reproduced below for ready reference:

“1to40...xxx.....xxx.....xxx

41. *In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh **which have also been repeated for other States in matters already dealt with, we direct:***

- a. *In view of the fact that most of the statutory timelines have expired and directions of the Hon'ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). **Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body with population with 5 lakhs from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty***

to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs /PCCs in the light of Para 33 above within six months from today. CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.

- b. Legacy waste remediation was to ‘commence’ from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28²² even though statutory timeline for ‘completing’ the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today, continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.**
- c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially**

²² The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health.

w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.

d. The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:

i. Interim measures for phytoremediation/bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies - 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.

ii. Commencement of setting up of STPs - 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.

iii. Commissioning of STPs - 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.

e. Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries of the States/UTs.

f. An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.

g. Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB.”

44. Vide order dated 14.12.2020 in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues*, further direction issued is as follows:-

“1to8...xxx.....xxx.....xxx

9. The compensation in terms of earlier order be recovered and credited to a separate account with the Environment Department of the States/UTs to be used for restoration of environment in the concerned States/UTs. The deposit, instead of being made with the CPCB, may now be made to the said account.”

45. **There are 4000 legacy waste dump sites (including in all NACs) in the country as per CPCB report noted in order dated 18.10.2019 in OA 606/2018.** Emissions therefrom and burning of garbage cause air pollution. The said accumulated/legacy waste needs to be tackled on war footing, as earlier directed by this Tribunal in OA No. 606/2018, in the presence of Chief Secretaries of all the States/UTs. **Progress on the subject is disappointing. Unplanned hazardous activities in residential areas are further matter of concern. There are no adequate safeguards against control of fugitive dust. Coal fired industrial activities are a great hazard. Density of vehicles, unclean fuel and lack of planning to regulate traffic need focused attention. No satisfactory solution is in place to control burning of crop residue. Environmental disasters remain unchecked.**

46. **Dumping and burning of bio-medical waste and plastic waste in violation of law significantly add to air pollution which need to be scientifically handled, as held by this Tribunal vide orders dated**

18.01.2021 in OA No. 710/2017, Shailesh Singh v. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors. and 08.01.2021 in EA No. 13/2019 in OA 247/2017, Central Pollution Control Board v. State of Andaman & Nicobar & Ors. respectively.

Measurement of Success – graph must show reduction of pollution load but infact pollution level increasing – Serious Monitoring and fixing accountability imperative:

47. Final success of execution of action plans depends on graph of reduced pollution load. This requires monitoring at highest levels in Districts, States and at the national level by coordination of all concerned departments. There is constitutional obligation of good governance and a duty to citizens to enforce their right of breathing fresh air. Absence of adequate remedial action is resulting in deaths and diseases which are like pandemic or like causing of homicide or grievous hurts with no accountability. Main sources of air pollution have been identified and remedial measures also articulated.

Some other recent NGT orders relevant in the context: Shifting coal fired industrial activities to PNG

48. As a result of regional carrying capacity evaluated by an Expert Committee under orders of this Tribunal in OA No. 1016/2019, *Utkarsh Panwar v. Central Pollution Control Board & Ors.*, it was found that **brick kilns in NCR were working beyond the carrying capacity**. This led to direction for control and regulation of such activities and also switching to cleaner fuel. **Similar directions were issued for air pollution in Morbi industrial area in Gujarat²³ and Mandi Gobindgarh Industrial area in Punjab²⁴ by shifting fuel for industrial activities from coal to PNG.**

²³ Order dated 6.3.2019 OA 20/17(WZ) Babubhai v GPCB

²⁴ Order dated 06.04.2021 in OA No. 924/2019, Neeraj Goyal v. State of Punjab

49. Once studies are carried out about sources of pollution beyond assimilative capacity of air, it will be possible to control and regulate polluting activities in the interest of public health and to give effect to the Sustainable Development principle.

Dust Control

50. In view of directions already given in OA 283/2020²⁵, there is need for control of fugitive dust emissions during the road cleaning by appropriately sprinkling of water and greening of the open soiled areas. Utilization of CAMPA funds for afforestation needs to be explored in coordination with the CAMPA authorities, as already directed.

Public Awareness and stringent measure against sources of pollution and revamping monitoring mechanism having sufficient qualified personnel, periodical training and procuring equipments – imperative for public health – constant planning and monitoring at all levels

51. Further attention is required to creating awareness about harmful polluting activities like fire crackers. It is well known that harmful hazy conditions of pollutants being locked in the air during October – November in North India may need sustained planning and action. Prior awareness of the public in this regard is imperative. There is also need for involvement of eminent citizens and experts. An Advisory Committee is required for each of the NAC and other air polluted areas where air quality is poor and above so that such Committees may interact with the resident welfare associations and other stake holders in the light of public grievances/suggestions, plan initiatives and special drives from time to time having regard to the local conditions. They can also coordinate with schools and colleges and research institutions.

²⁵ Order dated 03.12.2020, S.R. Virk v. Central Pollution Control Board

52. As already mentioned, pollution free environment is part of right to life. Air pollution beyond norms seriously affects health and environment. In spite of statutory mechanism and orders of the Hon'ble Supreme Court and other Courts/Tribunal, the challenge of pollution from different sources, including vehicular pollution, industrial and construction sector pollution, power sector pollution, agriculture sector pollution remains. Graded Action Response Plan (GRAP) has been issued for National Capital Region (NCR) in pursuance of directions of the Hon'ble Supreme Court stipulating steps to be taken for controlling/regulating several polluting activities depending upon the level of pollution.

53. In *Arjun Gopal & Ors. v. UOI & Ors.*²⁶, it was observed that the residents of NCR faced severe air quality standards which were worst in the World. It had serious adverse health impact. Life of citizens in NCR had been brought to virtual standstill. The Capital was smoked into an environmental emergency of unseen proportions. It will be appropriate to extract some observations from the judgment:-

*“4. The onset of winter and the festival/marriage season this year, presented to the residents of NCR severe concerns regarding the air quality standards. According to reports, the air quality standards in early November of this year were the worst in the world. **It is reported that the PM_{2.5} levels recorded were “beyond scale” values (see India's Air Quality Among World's Worst Over Diwali Weekend: Report. 4-11-2016, Hindustan Times). The report indicates that 24-hour average of PM_{2.5} levels in South Delhi in 2016 were 38% higher than on the Diwali night of 2015. The day after Diwali, these levels were twice as high as the day after Diwali in 2015, crossing 650 µg/m³, which is 26 times above the WHO's standards or levels considered safe. Shockingly, on the morning of 1-11-2016, Delhi woke up to an average PM_{2.5} level of over 700 µg/m³ — some of the highest levels recorded the world over and 29 times above WHO standards. The report further states that the WHO guideline for 24-hour average PM_{2.5} levels is 25 µg/m³ and with an annual average PM_{2.5} level of 122 µg/m³, Delhi's air is the worst among global megacities with dense populations. We have***

²⁶ (2017) 1 SCC 412

particularly referred to the PM 2.5 levels because of the extreme effects and near invisibility of this type of particulate matter. PM_{2.5} or particulate matter 2.5 (PM_{2.5}), refers to tiny particles or droplets in the air that are two-and-one-half microns or less in width. It may be noted that the widths of the larger particles in the PM_{2.5} size range would be about thirty times smaller than that of a human hair. These particles primarily emanate from vehicle exhausts and other operations that involve the burning of fuels such as wood, heating oil or coal, and of course, use of fire crackers.

5. In India, air quality standards are measured in terms of the Air Quality Index (hereinafter “AQI”). The AQI was launched in India on 17-10-2014 by the Ministry of Environment and Forests. According to the press release of the Press information Bureau of the same date, it consists of a comprehensive set of parameters to monitor and assess the air quality. The AQI considers eight pollutants (PM₁₀, PM_{2.5}, NO₂, SO₂, CO, O₃, NH₃, and Pb), and based on the levels of these pollutants six categories of AQI ranging from “Good” to “Severe” have been prescribed. The index also suggests the health effects of the pollution categorywise. The gradation of AQI and its health impact is extracted below:

Tables 1 and 2 have already been reproduced above and are not being repeated.

xxx.....xxxxxx
xxx.....xxxxxx

6. Reports indicate that AQI in Delhi was much above the severe standard, shooting off the AQI 500 mark on many days this November. On the day after Diwali, it was more than 14 times the safe limits (see Delhi's Pollution Levels Peaks at 14-16 Times Safe Limits, 31-10-2016, The Hindu). The adverse health effects of these hazardous levels of pollution are only too evident from the table given above. We do not intend to refer to the multiplicity of reports and data on this front.

7. The hazardous levels of air pollution in the last few weeks have spared very few from its ill effects. The life of the citizens of NCR was brought to a virtual standstill, not to speak about the plight of the thousands of mute flora and fauna in NCR. Schools were declared shut, denizens of the city advised to stay indoors, construction activities stopped, power stations shut and ban imposed on burning of garbage and agricultural waste. The fall in air quality has had a significant impact on people's lifestyle as well. The rising costs to protect against air pollution are substantial. It has come to our notice that people are queuing up to purchase protective masks and air purification systems in the wake of dense smog all over the NCR. In short, the capital was “smogged” into an environmental emergency of unseen proportions.

8. The adverse effects of these extreme levels of air pollution spare no one — the young, the old, the infirm and

even the future generations. A study of the data of the Global Health Depository of the World Health Organisation reveals that India has the world's highest death rate from chronic respiratory diseases and that about 1.5 million people in India die annually due to indoor and outdoor pollution (see Delhi Wakes up to an Air Pollution Problem it cannot Ignore, 15-2-2015, The New York Times). The Kolkata-based Chittaranjan National Cancer Institute (CNCI), in a study commissioned and handed over to the Central Pollution Control Board, found that key indicators of respiratory health, lung function to palpitation, vision to blood pressure, of children in Delhi, between four and 17 years of age, were worse off than their counterparts elsewhere. It also found that more than 40% of the school children suffer from lung damage (see Landmark Study Lies Buried, 2-4-2015, The Indian Express). We note with apprehension that there are nascent studies that suggest that pollution can lower children's IQ, hurt their test scores and increase the risks of autism, epilepsy, diabetes and even adult-onset diseases like multiple sclerosis (see Holding Your Breath in India, 29-5-2015, The New York Times).

9. It has been brought to our notice that the severe air pollution in the NCR is leading to multiple diseases and other health related issues amongst the people. It is said that the increase in respiratory diseases like asthma, lung cancer, bronchitis, etc. is primarily attributable to the worsening air quality in the NCR. The damage being caused to people's lungs is said to be irreversible. Other health related issues like allergies, temporary deafness are also on the rise. Various experts have pointed towards multiple adverse effects of air pollution on human health like premature deaths, rise in mortality rates, palpitation, loss of vision, arthritis, heart ailments, cancer, etc.

10. When we refer to these extreme effects, we are not merely referring to the inconvenience caused to people, but to abject deprivation of a range of constitutionally embedded rights that the residents of NCR ought to have enjoyed. Needless to state, the grim situation of air quality adversely affected the right to education, work, health and ultimately, the right to life of the citizens, and this Court is constitutionally bound to address their grave concerns. May we remind ourselves, that this is not the first time that this Court was impelled into ensuring clean air for the citizens of the capital region (see *M.C. Mehta v. Union of India* [*M.C. Mehta v. Union of India*, (1998) 6 SCC 60] · [*M.C. Mehta v. Union of India*, (1998) 9 SCC 589] , *M.C. Mehta v. Union of India* [*M.C. Mehta v. Union of India*, (1998) 8 SCC 648] and *M.C. Mehta v. Union of India* [*M.C. Mehta v. Union of India*, (1998) 8 SCC 206]).”

54. We have already noticed directions of CPCB under section 18 of the Air Act dated 29.12.2015 for setting up of monitoring stations and orders

of the Hon'ble Supreme Court for control of vehicular, industrial, construction, power sector and agricultural pollution, CAP prepared by EPCA for NCR and GRAP notified by MoEF&CC for NCR for measures in response to higher pollution levels, including closing of specified polluting activities and also restrictions in eco sensitive zones and need for comprehensive measures for NACs, which are a class of polluted areas requiring targeted measures on the pattern of NCR and ESZs.

Enforcement of air quality standards in areas other than 124 NACs

55. As already mentioned, the criteria for determining NACs is consecutive non-compliance for five years for any of the 12 parameters. Apart from a city or area being non-compliant of any of the parameters for five consecutive years and qualifying as NACs, there are cities or areas which are non-compliant with the air quality standards but not for consecutive five years. Such cities also need remedial action at par with NACs. Further, where-ever air quality is poor or above, in view of adverse health impact of air pollution, remedial action is required in the interest of public health.

VIII. Consideration of way forward and Directions:

56. As shown from the resume of orders dated 8.10.2018, 15.03.2019, 06.08.2019, 20.11.2019 and 21.8.2020 in the present matter and other orders in related matters and above discussion, specific action points stand identified. There are action plans prepared by six member Air Quality Monitoring Committees (AQMCs) in States/UTs, overseen by the Chief Secretaries and approved by Expert Committee comprising Member Secretary CPCB, Prof Mukesh Khare, IIT Delhi and Prof. Mukesh Sharma, IIT Kanpur. The subject was also discussed with the Chief Secretaries of all the States/UTs during their appearance before the Tribunal in

pursuance of order dated 16.1.2019. On further review, 15 specific directions were issued on 6.8.2019 including setting up of online Continuous Ambient Air Quality Monitoring Stations (CAAQMS), undertaking Source Apportionment (SA) and Carrying Capacity (CC) studies, reviewing of master plans consistent with such studies, closing/shifting industrial units from residential/non-conforming areas consistent with the directions of the Hon'ble Supreme Court, developing public grievance redressal portals and incorporating compensation regime against the violators. The Tribunal also took cognizance of the noise pollution which is also covered under the Air (Prevention and Control of Pollution) Act, 1981 and 2000 Rules under the EP Act. Further issues considered include revamping of CPCB and State PCBs for effective monitoring. Progress was reviewed on 20.11.2019 and further 16 specific directions were issued, including compensation for defaults. Further issue of regulating parking in the light of capacity of the road infrastructure was dealt with vide order dated 26.2.2020, as already mentioned earlier. Finally, on 21.8.2020 comprehensive review was undertaken and 18 specific directions were issued. **The compliance status does not show significant achievements and there continue to be huge gaps in what is required to be done and what has been done.**

57. **That 124 major cities in the country are continuously non-compliant with the prescribed standards of air quality for more than five years is a matter of serious national concern which needs to be addressed urgently at all levels by involvement of highest authorities. Challenge is equally serious for areas where pollution levels are as high as above poor even though outside 125 NACs. Challenge of control of noise pollution also confronts the citizens. Thus, the**

concerned authorities have to perform their responsibility, including public awareness and involvement.

58. In the light of above detailed discussion, holistic and coordinated efforts at all levels in the government is dire need of the hour. Accountability in terms of adverse entries in the ACRs and recovery of compensation for non-compliance are imperative for fixing accountability. This requires authorities at higher level to function as trustees for discharge of constitutional and statutory obligation to the citizens. There is no other magic wand to protect people against acknowledged sorry state of affairs. As shown from the observations of Hon'ble Supreme Court quoted in para 53 above, India has world's highest death rate from chronic respiratory diseases. About 1.5 million people in India die annually due to air pollution. The Hon'ble Supreme Court also observed that 40% school children suffer from lung damage. Air pollution can lower children's IQ, hurt their test scores and increase the risks of autism, epilepsy, diabetes and even adult-onset diseases. Severe air pollution is leading to diseases and irreversible damage to health. There are other health related issues like allergies, temporary deafness. Various experts have pointed towards multiple adverse effects of air pollution on human health like premature deaths, rise in mortality rates, palpitation, loss of vision, arthritis, heart ailments, cancer, etc. This is resulting in deprivation of constitutionally embedded rights. Grim situation is affecting right to education, work, health and ultimately, the right to life of the citizens. There are further reports²⁷ that air pollution is

²⁷(i) Air pollution killed 1.7 million Indians in 2019: Lancet report: (<https://www.downtoearth.org.in/news/air/amp/air-pollution-killed-1-7-million-indians-in-2019-lancet-report->

resulting in fatalities and economic losses. Remedial action is thus utmost for protecting health of the citizens.

Need for a High-level National Task Force for Monitoring

59. The matter has been monitored by the Tribunal for about two and a half years. Primarily **the Tribunal is an adjudicatory body and beyond giving directions necessary for protection of environment under section 15 of the NGT Act, execution has to be by administrative authorities.** Under public trust doctrine, the State authorities are under obligation to take effective measures to control pollution. Tribunal monitoring cannot be for indefinite period. Road map has crystallised to an extent. The Tribunal has formulated direction and conducted review five times with the assistance of data available with it. The ownership of monitoring must be now taken over by the statutory and administrative authorities for enforcement of rule of law for which a national level task force needs to be constituted. **Thus, we find it necessary to give effect to the principle of Sustainable Development, in the interest of protection of environment and public health, to direct constitution of an eight-member National Task Force (NTF) to be headed and coordinated by the Secretary MoEF&CC with nominees of Ministries from Housing and Urban Development, Road Transport, Petroleum, Power, Agriculture, Health and CPCB with a view to monitor remedial**

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(ii) AIR POLLUTION RELATED DISEASE, DEATHS COST INDIA RS 260,000 CRORES IN ECONOMIC LOSS: REPORT (<https://www.firstpost.com/tech/science/air-pollution-related-disease-deaths-cost-india-rs-260000-crores-in-economic-loss-report-9159281.html>)

(iii) 1.7 million deaths in India were attributable to air pollution in 2019, says study: (<https://www.thehindu.com/news/national/17-million-deaths-in-india-were-attributable-to-air-pollution-in-2019-says-study/article33394600.ece>)

(iv) Air pollution in India caused 1.67 million deaths in 2019: (<https://www.news-medical.net/news/20201223/Air-pollution-in-India-caused-167-million-deaths-in-2019.aspx>)

(v) Air pollution caused 54,000 deaths, \$8.1 billion loss in Delhi in 2020 : (<https://www.businesstoday.in/current/economy-politics/air-pollution-claimed-54000-lives-in-delhi-last-year-one-death-per-500-people-claims-greenpeace-study/story/431766.html>)

steps to improve the status of air quality in NACs consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal, referred to above, including the last order dated 21.08.2020 and also to monitor compliance of noise control norms. The NTF may hold its first meeting within one month and thereafter evolve mechanism for monitoring by quarterly meetings with Chief Secretaries of concerned States/UTs. The NTF may coordinate and work in tandem with the Committees already constituted under NCAP at National and State levels. Needless to say that the Chief Secretaries must continue to monitor progress in execution of action plans at State level with the assistance of monitoring cells in their offices and the AQMCs so as to effectively provide positive feedback to the NTF. The State level monitoring must include action at the ground as per directions to be implemented by the District Magistrates or other concerned departments. The monitoring may include all associated issues, including road dust control by appropriate sprinkling of water (utilizing treated water, instead of potable water), planting herbs and shrubs, and all sources of pollution, including fire crackers.

Directions

60. Our directions are summed up as follows:

- i. We direct constitution of an eight-member National Task Force (NTF) to be headed and coordinated by the Secretary MoEF&CC with nominees (not below the rank of Joint Secretaries) of Ministries from Housing and Urban Development, Road Transport, Petroleum, Power, Agriculture, Health and Chairman, CPCB with a view to**

monitor remedial steps to improve the status of air quality in NACs consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal, referred to above, including the last order dated 21.08.2020 and also to monitor compliance of noise control norms. NTF may also monitor enforcement of laid down air quality standards beyond NACs in other identified air polluted areas where air quality is poor and above.

ii. The NTF may hold its first meeting within one month and thereafter evolve mechanism for monitoring by quarterly meetings with Chief Secretaries of concerned States/UTs. The NTF may coordinate and work in tandem with the Committees already constituted under NCAP at National and State levels.

iii. Monitoring by NTF may be with reference to the action plans of 124 NACs. The components include installation of monitoring stations, completion of CC and SA studies, shifting, prohibiting and regulating activities beyond carrying capacity (such as shifting to cleaner fuel and declaring regulated/no vehicle zones so as to ensure that the air quality does not go beyond 'poor' for protection of health of the citizens), effectiveness of PGRPs, timelines for execution of the action plans and recovery of compensation for delay, addressing gap in control of noise pollution, afforestation drives utilizing CAMPA funds, effective implementation of ERS, revamping of PCBs/PCCs and other monitoring mechanism, remediation of legacy waste sites and effective steps for management of other waste, including biomedical, plastic and e-waste, dust control, public awareness

and community involvement programmes and setting up of data grids on all levels. NTF may also evolve and oversee parameters for interse ranking of success of remedial action for 124 NACs and other air polluted areas where air quality is poor and above. Further, accountability for failures and incentives for success also needs to be monitored. NTF is free to take up any other incidental issues.

- iv. Consistent with Digital India initiatives, MoEF&CC/ CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) and District Environment Data Grids (DEDGs) and further linked to available portals like online air quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to National Air Quality Monitoring Programme (NAMP). Based on above data, the MoEF&CC may lay down guidelines for classifying cities/districts in terms of air quality in different categories such as 'red', 'orange' and 'green'. On that basis, a National Air Quality Atlas may be compiled and published on the websites of MoEF&CC, CPCB and State PCBs/PCCs annually.
- v. **The Chief Secretaries of all States/UTs may continue to monitor progress in execution of action plans at State level with the assistance of monitoring cells in their offices and the AQMCs. The State level monitoring must include action at the ground as per directions to be implemented by the District Magistrates or other concerned departments. The monitoring may include all associated issues, including**

road dust control by appropriate sprinkling of water (utilizing treated water, instead of potable water), planting herbs and shrubs, and all sources of pollution, including fire crackers. The issue of noise pollution also needs to be addressed, as earlier directed.

The application is disposed of.

A copy of this order be forwarded to the Secretaries, MoEF&CC, Ministries of Urban Development Department, Road Transport and Highways, Petroleum, Power, Agriculture, Health, CPCB, the Chief Secretaries, PCBs/PCCs and District Magistrates of all the States/UTs by e-mail for compliance.

Adarsh Kumar Goel, CP

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B. Amit Sthalekar, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

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April 8, 2021
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