

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 618 of 2016
(M.A. No. 1193 of 2016)

Sanjay Kumar Vs. State of U.P. & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. AJAY A DESHPANDE, EXPERT MEMBER

Present: Applicant: Mr. Sanjay Kumar, Adv. in person
Respondent No.1: Mr. Abhishek Yadav, Adv.
Mr. Pradeep Misra and Mr. Daleep Kr Dhyani
Adv.
Mr. Rajkumar, Adv. and Mr. Bhupendra Kuamr,
LA
Mr. B.V. Niren and Mr. S.N.Jha, Adv.
Mr. Ravindra Kumar, Adv.
Mr. Divya Prakash Pande, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 06 November 23, 2016 A	<p>In furtherance to our order dated 21st November, 2016 the District Magistrate of Gautam Buddha Nagar, Additional SP and CEOs of NOIDA Development Authority and Greater NOIDA Development Authority, Officers from the Uttar Pradesh Pollution Control Board and Central Pollution Control Board are present. It is not disputed before us that the burning of municipal solid waste, as reported by the Time of India on 21st November, 2016, is correct and though at the time of inspection burning fire was not noticed by the inspecting team but the remnants of burning were found and the area was partially found to have been covered by soil. The inspecting team appointed under the orders of the Tribunal went to different places and found that municipal solid waste and other waste was being burnt in open.</p> <p>As far as Hot mix/ Ready mix concrete plants are concerned, according to the Applicant there were 21 in number which were operating in NOIDA illegally,</p>

<p>Item No. 06</p> <p>November 23, 2016</p>	<p>unauthorisedly and without consent of the Board. They were emitting highly polluting ambient air quality in the area in question.</p> <p>Learned counsel appearing for Uttar Pradesh Pollution Control Board submits that they have not granted consent to any of them, either to establish or to operate. On the contrary on 21st June, 2015 they had written letter to the Office of DM that these plants were operating illegally and unauthorisedly and action should be taken. Similarly NOIDA Authority had noticed this unauthorized, illegal and polluting activity in May, 2015 and had written to the Pollution Control Board to take action. The DM held a meeting and passed orders orally, observing that no illegal activity should be permitted.</p> <p>The fact of the matter remains that all these plants and large number of burning instances have been causing havoc in relation to air pollution. It has obviously effected the public health and environment, not only of that area but the entire NCR of Delhi. It is evident that all Authorities concerned have failed to perform their statutory duty and public law obligations. It was expected from these Authorities to act within their jurisdiction to ensure that there is no pollution of air and the public at large is not subjected to health hazards because of their negligence or non-performance of duties.</p> <p>It is evident from the above narrated facts that there has been shifting of blame game between these Authority rather than performing their own functions and duties in accordance with law. We do expect that all these senior Officers to be sensitive to the environmental matters and</p>
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	<p>Item No. 06</p> <p>November 23, 2016</p>	<p>perform functions and duties to ensure protection of environmental rights of the citizens. Public Authorities are constituted for better governance and facilitating the life and development of the areas under their jurisdiction. They cannot keep silence when the situation demands expeditious and serious actions from them. They must explain their conduct and behavior in the event of failure. Every public servant first owes a duty towards the public for proper governance and discharge of their statutory or public duties. Shifting of blame from one to another is no answer to the serious problem where the ambient air quality was polluted to the extent that against the prescribed value of 100 in relation to PM₁₀, it was 1990. It is alarming situation where definite and effective steps are required to be taken by the Authorities concerned.</p> <p>Having heard the Learned counsel appearing for the parties and the Officers present at length we pass following directions:-</p> <ol style="list-style-type: none"> 1. All Authorities concerned shall ensure implementation of the various orders passed by the Tribunal in relation to prevention and control of air pollution, particularly our order dated 10th November, 2016. 2. All the Officers including the Chairman of Uttar Pradesh Pollution Control Board and DM, SSP, CEOs of NOIDA Development Authority and Greater NOIDA Development Authority shall file Reply to the show cause Notice as to why they failed to take action against illegal and unauthorized running of Hot mix concrete plants/ Ready Mix Plants (21)
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plants since the year 2015. The hot mix plants are responsible for emitting dusts as well as gases which amongst other are carcinogenic. Why the Board did not issue any directions under Section 5 of Environment Protection Act, Air Act and Water Act? Why they did not take appropriate action against all the Builders for emissions of dust during construction, transportation and other allied activity in respect of construction? They should further file Reply as to why the Tribunal should not pass appropriate directions for initiation of appropriate proceedings against the Officers, including imposition of environmental compensation.

3. 50% of the entire staff of DM, SP, Pollution Control Board, NOIDA Development Authority and Greater NOIDA Development Authority shall be placed on field duty to ensure that there is no emission of dusts, no burning of waste and other emissions which are injurious to environment and public health.

4. The staff should report the matter to their Senior Officers and the defaulters should be subjected to payment of environmental compensation and other penalty in accordance with law and under the orders of the Tribunal. The DM shall take weekly meeting of all the Authorities on every Friday and submit a report of compliance to the Tribunal in the second week showing compliance as well as the Authority which is lacking in performance or have failed to carry out directions of the Tribunal or

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enforcement of all preventive and precautionary measures in relation to air pollution. 21 Hot and Ready mix concrete plants shall be shut down forthwith. We are informed that under the order of the DM most of them are lying closed. All these plants will not be permitted to operate without obtaining the consent of the Board, permission from the concerned Authorities and shall be subjected to orders of this Tribunal. None of the plant owners would be permitted to shift the machinery for its installation to any other area, nearby. If such permission is applied for by the plants owners, the DM in consultation with all the Authorities pass appropriate Orders and implementation of such order would be subject to orders of this Tribunal.

5. We direct that the State Government and the Pollution Control Board shall issue Notice to all the 21 Hot/ Ready mix concrete plants to show cause to the Tribunal as to why they be not directed to pay environmental compensation in terms of Section 15 and 17 of the National Green Tribunal Act, 2010 for operating illegally and unauthorisedly since 2015 and causing serious air pollution. They had operated in complete violation of the provision of Water Act, Air Act and Environment Protection Act.

6. If anybody is found to be violating these directions and the standards required to be maintained for adherence to the air prevention of air pollution. The Authorities would be at their liberty to cease such

	<p>Item No. 06</p> <p>November 23, 2016</p>	<p>material to avoid repetitive act.</p> <p>7. Action in compliance to these directions and orders of the Tribunal and provision of the above mentioned statutory act would be independent of any other proceedings that are taken by the Authorities concerned, under other laws in force.</p> <p>8. We direct that all the Authorities concerned, State Government and all the Public Authorities/ agency shall ensure strict compliance to these directions and also fully cooperate with the directions issued by DM.</p> <p>9. We direct Uttar Pradesh Pollution Control Board and Central Pollution Control Board to take ambient air quality samples as on today and after 10 days and submit both analysis reports to the Tribunal. The samples should be analysed for all the pollutants, as per the National Standard not merely with reference to PM_{2.5} and PM₁₀.</p> <p>List this matter for hearing on 14th December, 2016.</p> <p>.....,CP (Swatanter Kumar)</p> <p>.....,JM (Raghuvendra S. Rathore)</p> <p>.....,EM (Dr. Ajay A Deshpande)</p>
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