

ITEM NO.301

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).1135/2020

ADITYA DUBEY (MINOR) & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

IA No. 98165/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 150881/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 152069/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 149458/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 149457/2021 - INTERVENTION APPLICATION
IA No. 148255/2021 - INTERVENTION APPLICATION
IA No. 152068/2021 - INTERVENTION APPLICATION
IA No. 151957/2021 - INTERVENTION APPLICATION
IA No. 150880/2021 - INTERVENTION APPLICATION
IA No. 150968/2021 - INTERVENTION/IMPLEADMENT

Date : 24-11-2021 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s) Mr. Vikas Singh, Sr.Adv.
Mr. Nikhil Jain, AOR
Mr. Meenesh Dubey, Adv.
Ms. Deepika Kalia, Adv.
Mr. Satya Prakash, Adv.
Mr. Vinod Kr. Jain, Adv.
Mr. Satwik Mishra, Adv.

For Respondent(s) Mr. Tushar Mehta, SG
Ms. Aishwarya Bhati, ASG
Mr. Rajat Nair, Adv.
Ms. Suhasini Sen, Adv.
Mr. Navanjay Mahapatra, Adv.
Ms. Archana Pathak Dave, Adv.
Mr. Gurmeet Singh Makker, AOR

For State of Punjab Mr. D.S. Patwalia, Sr.Adv.
Mr. Anirudh Bakhru, Adv.
Ms. Ranjeeta Rohatgi, AOR
Mr. Gauravjit Patwalia, Adv.

Dr. A.M. Singhvi, Sr.Adv.
Mr. Rahul Mehra, Sr.Adv.

Ms. Jyoti Mendiratta, AOR
Mr. Amit Bhandari, Adv.

Ms. Uttara Babbar, AOR

Mr. Rajiv Raizada, Sr.Adv./AAG
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashwin Mishra, Adv.
Mr. Anurag Tiwari, Adv.
Mr. Kamlendra Mishra, AOR

Mr. Anil Grover, Sr.AAG
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Satish Kumar, Adv.
Ms. Babita Mishra, Adv.
Mr. Sanjay Kumar Visen, AOR

Mr. Rakesh Dahiya, AOR
Mr. Aditya Dahiya, Adv.
Mr. Ravi Swami, Adv.
Mr. Bhudev Prasad Vaishnav, Adv.

Mr. Anilendra Pandey, AOR
Mr. Charanpal Singh Bagri, Adv.
Dr. Gurjit Kaur Jassar Bagri, Adv.
Mr. Ashwani Kumar, Adv.
Mr. Manoj Kumar, Adv.
Mr. Sandeep, Adv.

Mr. Rahul Shukla, Adv.
Mr. Kumar Dushyant Singh, AOR

Ms. Shyel Trehan, Adv.
Mr. Chirayu Jain, Adv.
Mr. Shivendra Singh, AOR

Ms. Sanchita Ain, AOR
Ms. Tanvi Tuhina, Adv.

Mr. Kaushal Yadav, AOR
Mr. Kamlesh Kumar Maurya, Adv.
Mr. Nandlal Kumar Mishra, Adv.
Mr. Vivekanand Rana, Adv.
Mr. Shafik Ahmed, Adv.
Mr. Vishal Tiwari, Adv.
Mr. Dhruv Singh, Adv.

Mr. Manish Kumar, Adv.
Mr. Nakul Jain, Adv.
Mr. Piyush Kaushik, Adv.
Mr. Amit Kumar, Adv.
Mr. Hayat Ahluwalia, Adv.

Ms. Divya Roy, Adv.

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

Heard Mr. Vikas Singh, senior counsel for the petitioners, Mr. Tushar Mehta, Solicitor General on behalf of the Union of India, Dr. A.M. Singhvi, senior counsel on behalf of the Government of National Capital Territory of Delhi, Mr. Rakesh Dahiya, Mr. Manish Kumar and Ms. Shyel Trehan, appearing on behalf of the applicant/intervenors.

The Solicitor General submitted that (i) the Air Quality Index of Delhi this morning was 290 as compared to 403 last week; (ii) In view of the improvement in Delhi's air quality the ban on construction activities has been lifted with effect from 22.11.2021; (iv) decisions have been taken by the Commission for Air Quality Management in National Capital Region and Adjoining Areas at a meeting on 21.11.2021; (v) the Note tendered indicates that the Commission by Direction No.44 dated 16.11.2021 directed the NCR States and Government of NCT of Delhi to take concerted action and preventive measures in various sectors to mitigate the adverse air quality; (vi) to minimise industrial pollution, industries which are already connected to PNG supply but are still using other fuels have been closed down; (vii) industries which were using unapproved fuels have also been closed down; and (viii) intensive and continuous drives to monitor compliance of air pollution control norms by industrial units and for suitable penal action and/or closure have been adopted.

The Solicitor General also referred to the Affidavit dated 16.11.2021 filed on behalf of the Ministry of Environment, Forests and Climate Change (respondent No.1 herein) in compliance with the order dated 15.11.2021 and read out various steps taken by the Government for effective control of air pollution in Delhi-NCR.

The Solicitor General submitted that a plan for graded response has been prepared in pursuance of which measures are identified to be taken progressively on the basis of worsening levels of ambient air pollution. The graded response plan which has

been formulated envisages that action is to be taken after a deterioration in the air quality is actually recorded. In other words, action is proposed after air quality has deteriorated. We direct that instead of waiting for the air quality to deteriorate before initiating action under the graded response plan, necessary measures must be put into place in anticipation of a deterioration of air quality. For this purpose, it is necessary for the Commission to engage expert agencies with domain knowledge in meteorological data and statistical modelling. The Commission must commission a scientific study of air quality based on available data of previous years bearing upon recorded levels of air pollution. The study must factor in seasonal variations and other relevant parameters. Once a scientific model is available, which factors in wind velocity as well as natural and man-made phenomena, the graded response plan can be modulated to provide for measures being taken in advance, based on anticipated changes in air quality without waiting for the air quality to deteriorate. On this basis steps can be planned at least a week in advance and even earlier, based on anticipated levels of air pollution in the foreseeable future. The Commission shall carry out the above exercise within a month and report the steps taken for compliance with this direction.

In the meantime, as an interim measure and until further orders, we re-impose the ban on the construction activities in the NCR subject to the following two conditions:-

- (i) Non-polluting activities relating to construction such as the plumbing work, interior decoration, electrical work and carpentry are allowed to be continued;
- (ii) The States shall use the funds which have been collected as labour cess for the welfare of construction workers to provide them subsistence for the period during which construction activities are prohibited and pay wages notified under the Minimum Wages Act for the respective

categories of workers.

For further consideration, list the matter on 29.11.2021.

In the meantime, the Central Government, Delhi-NCR States and the Commission are directed to take appropriate steps to deal with the situation as directed by this Court from time to time.

**(SATISH KUMAR YADAV)
DEPUTY REGISTRAR**

**(R.S. NARAYANAN)
COURT MASTER (NSH)**