

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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)**

And

Original Application No. 21/2014

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And**

**Sanjay Kulshrestha Vs. Union of India & Ors.
And**

**Supreme Court Women Lawyers Association Vs. Union of India & Ors.
And**

**Diya Kapur & Ors. Vs. Union of India & Ors.
And**

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant :

**Mr. Sanjay Upadhyay Ms. Upama Bhattacharjee, and
Mr. Saumitra Jaiswal, Adv.
Mr. Shivam Bajaj., Adv in M.A. No. 1384
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Mr. Pinaki Mishra, Sr. Adv, Mr. Sudhir Mishra and
Ms. Ritwick Nanda, Adv
Mr. S.M. Ali, Special Sec., Dr. Anil Kumar, Director, Mr.
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Mr. Udaibir Singh Kochar Adv.
Mr. Debarshi Bhuyan Adv
Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal and Ms.
Sikha Sandhu Mr. Adhiraj Singh Rajwat, Adv. Mr. R. K.
Gorver Sec. Environment Rajsastha**

Mr. Bhanwar Pal Singh Jadon and Dr. Sandeep Singh, Adv.
Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Advs.
Mr. Vijay Sondhi, Ms. Cauveri Birbal, Mr. Sarvajeet Kumar Thakur, Advs.
Mr. Soumyajit Pani, Adv with Mr. Chittaranjan Singh, Advs.
Dr. Sandeep Singh and Mr. Vinay Pal, Advs.
Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Advs. for State of Uttarakhand
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 Mr. Ardhendhumauli, Kr. Prasad, Mr. Shashank Saxena, Advs.
 Mr. Anil Grover, AAG, Mr. Rahul Khurana, Adv. with S. Narayan, Member, Secretary, HSPCB
 Mr. Mukul Singh, Adv. for MoEF.
 Mr. Amit Agrawal, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>When this matter came up for hearing in the earlier part of the day, we had passed the following order:</p> <p>We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant.</p> <p>Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day.</p> <p>Thus now, we proceed to record the detailed order.</p> <p>All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, "GRAP"), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i></p>

	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p><i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According</p>
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to the State of Uttar Pradesh they will start taking steps once the value is greater than $61 \mu\text{g}/\text{m}^3$ and less than $90 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than $101 \mu\text{g}/\text{m}^3$ and less than $250 \mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is $100 \mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is $60 \mu\text{g}/\text{m}^3$.

We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2 , NOX , Hydro-Carbon, CO , BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country.

It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above.

The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis.

Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans.</p> <p>The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relating to different values of ambient air quality in their action plans.</p> <p>We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP.</p> <p>During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.</p>
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	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³.</p> <p>Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016.</p> <p>This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right.</p> <p>The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the</p>
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citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country.

It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation.</p> <p>In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific</p>
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	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>directions but unfortunately they remained un-complied.</p> <p>Amongst other, seven major contributors of air pollution are as under:</p> <ol style="list-style-type: none"> 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. <p>In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal.</p> <p>We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting.</p> <p>Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. 'Categorization' has</p>
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	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be</p>
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	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>classified as follows:</p> <ol style="list-style-type: none"> 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. <p>The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this.</p> <p>At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i></p>
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	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p><i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated.</p> <p>1) Action/Steps to be taken when the pollution level fall in Category I:</p> <p>a) All concerned should make every effort to increase the green/forest cover.</p> <p>There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015).</p> <p>The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance.</p> <p>b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power</p>
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	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>Plants are not emitting any gases or substances in excess of prescribed limit.</p> <p>c) The States and its instrumentalities shall encourage composting of biomass.</p> <p>d) Mechanized sweeping of roads.</p> <p>e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values.</p> <p>f) Organizing public awareness programmes for prevention and control of air pollution.</p> <p>g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016).</p> <p>h) All State Governments and their instrumentalities including public authorities shall ensure that</p>
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there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items.

- i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advise the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions.
- j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

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vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat.

k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same.

l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles.

m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

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but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017).

n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles.

o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust.

p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf.

q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014).</p> <p>r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015).</p> <p>s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted.</p> <p>2) Category II (Severe)-Action and measures to be taken and penalties to be imposed:</p> <ol style="list-style-type: none"> 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.
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4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever.
5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day.
6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles.
7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015).</p> <p>8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles.</p> <p>3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both.</p> <p>1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well.</p> <p>2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,</p>
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	<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>comply with all such directions. Besides, we also issue the following directions.</p> <p>i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default.</p> <p>ii) All the brick kilns functioning in NCR Delhi shall be closed.</p> <p>iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders.</p> <p>iv) All the Thermal Power Plants in NCT of Delhi shall not operate.</p> <p>v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits.</p> <p>vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be</p>
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<p>Item Nos. 27-32</p> <p>December 18, 2017</p>	<p>prohibited from entering NCT of Delhi.</p> <p>Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency.</p> <p>vii) Whenever there is environmental emergency, i.e., PM₁₀ exceeds 1000 µg/m³ and PM_{2.5} exceeds 600 µg/m³ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire.</p> <p>viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall</p>
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be issued within a period of two months from the date of passing of this order.

GENERAL DIRECTIONS:

1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of *Vardhaman Kaushik* (supra) and 10th December, 2015 in the case of *Vikrant Kumar Tongad* (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default.
2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi
3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction.
4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

without delay and default.

5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default.

6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of *Vardhman Kaushik vs. Union of India & Ors.*, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of *Vikrant Kumar Tongad vs. Union of India & Ors.*, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi.

7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law.

8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof.

9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders aforesaid. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal.

10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal.

We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

The application is thus disposed of without any order as to cost.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. Nagin Nanda)

