

मध्यप्रदेश शासन
गृह (सी-अनुभाग) विभाग,
मन्त्रालय, वल्लभ भवन-462004

क. 2740 / 1658761 / 2023 / दो / सी-2
प्रति,

भोपाल दिनांक 26 / 10 / 2023

1. पुलिस आयुक्त,
भोपाल एवं इंदौर, म0प्र0
2. समस्त जिला कलेक्टर,
मध्यप्रदेश।
3. समस्त पुलिस अधीक्षक,
मध्यप्रदेश।

विषय— दीपावली पर्व के दौरान फटाकों के निर्माण, उपयोग, विक्रय, वितरण एवं प्रस्फोटन के संबंध में मानक संचालक प्रक्रिया अनुसार कार्यवाही बाबत।


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उपरोक्त विषयक माननीय उच्चतम न्यायालय, द्वारा डब्ल्यू.पी. (सी) क. 728/2015 में जारी आदेश, दिनांक 29.10.2021 एवं माननीय हरित अधिकरण, सेंट्रल जोन, भोपाल द्वारा ओए नं. 76/2021(CZ) में जारी आदेश दिनांक 27.10.2021 के परिपालन में म0प्र0प्रदूषण नियंत्रण बोर्ड से प्राप्त पत्र क.219/प्रनिबो/फाइल नं.104II/मॉनिटरिंग/2022 दिनांक 13.10.2022 की छायाप्रति संलग्न प्रेषित है, जिसमें दीपावली पर्व के दौरान फटाकों के निर्माण, उपयोग, विक्रय, वितरण एवं प्रस्फोटन के संबंध में मानक संचालक प्रक्रिया तैयार की गई है।

2/ माननीय उच्चतम न्यायालय एवं माननीय हरित अधिकरण, सेंट्रल जोन भोपाल द्वारा पारित आदेशों एवं उपरोक्त निर्धारित मानक संचालक प्रक्रिया का सख्ती से पालन सुनिश्चित किया जावे। उक्त आदेशों की अवहेलना करने पर वैधानिक प्रावधानों अंतर्गत कार्यवाही आवश्यक रूप से सुनिश्चित की जावे। मानक संचालन प्रक्रिया(SOP) के पालन हेतु प्रिंट/इलेक्ट्रॉनिक मीडिया एवं स्थानीय केबल नेटवर्क इत्यादि के माध्यम से व्यापक प्रचार-प्रसार सुनिश्चित करें।

3/ उपरोक्त आदेश को सर्वोच्च प्रार्थमिकता प्रदान करें।
संलग्न :-

1. मानक संचालन प्रक्रिया (SOP)
 2. मा. उच्चतम न्यायालय आदेश दि. 29.10.2021
 3. मा. हरित अधिकरण, आदेश दि. 27.10.2021
 4. AQI INDEX, (Oct 2022, Nov 2022)
- (कुल पृष्ठ संख्या:- 45)


(डॉ. राजेंद्र राय) 23

अपर मुख्य सचिव

मध्यप्रदेश शासन, गृह विभाग
भोपाल दिनांक 26 / 10 / 2023

क. 2741 / 1658761 / 2023 / दो / सी-2
प्रतिलिपि—

1. उप सचिव, मुख्य सचिव कार्यालय मन्त्रालय भोपाल की ओर सूचनार्थ।
 2. पुलिस महानिदेशक, म.प्र. भोपाल की ओर सूचनार्थ।
 3. प्रमुख सचिव, पर्यावरण विभाग।
 4. समस्त संभागायुक्त, म.प्र.
 5. सचिव, म.प्र. पर्यावरण नियंत्रण मण्डल भोपाल।
 6. समस्त पुलिस महानिरीक्षक म.प्र.
- की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु अग्रेषित।


अपर मुख्य सचिव 26/10/23
मध्यप्रदेश शासन गृह विभाग



अंलग्नक - 3

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मध्य प्रदेश प्रदूषण नियंत्रण बोर्ड
पर्यावरण परिसर, ई-5, अरेरा कालोनी, भोपाल- 462016 (म.प्र.)
Tel: 0755-2464428, 2466191 Fax: 0755-2463742

आज्ञा नं. 104 II

क्रमांक 219 /प्रनिबो/मॉनीटरिंग/2022

भोपाल, दिनांक 13/10/2022

प्रति,

अपर मुख्य सचिव,
गृह विभाग, मध्यप्रदेश शासन,
मंत्रालय-भोपाल ।

विषय :- दीपावली पर्व के दौरान फटाकों के निर्माण, उपयोग, विक्रय, वितरण एवं प्रस्फोटन के संबंध में मानक संचालक प्रक्रिया।

सन्दर्भ :- माननीय सर्वोच्च न्यायालय द्वारा डब्ल्यू.पी. (सी) क्रमांक 728/15 में जारी आदेश दिनांक 29.10.2021 एवं माननीय हरित अधिकरण, सेंट्रल जोन, भोपाल द्वारा ओए नं. 76/2021 में जारी आदेश दिनांक 27.10.2021 के पालनार्थ कार्यवाही बावत्।

कृपया उपरोक्त संदर्भित आदेशों के परिप्रेक्ष्य में दीपावली पर्व के दौरान फटाकों के निर्माण, उपयोग, विक्रय, वितरण एवं प्रस्फोटन के संबंध में निम्नानुसार मानक संचालक प्रक्रिया (Standard Operating Procedure) निर्धारित की जाती है :-

1. (i) दीपावली पर्व के समय रात्रि 08:00 से 10:00 बजे तक ग्रीन फटाकों का उपयोग सिर्फ उन शहरों में किया जा सकता है, जहाँ नवम्बर 2021 की स्थिति में वायु गुणवत्ता सूचकांक (Air Quality Index - AQI) मध्यम अथवा उससे कम (Moderate or below) श्रेणी की हैं। माह नवम्बर 2021 के दौरान यदि वायु गुणवत्ता सूचकांक (Air Quality Index) Poor & above Category वाले सभी शहरों में फटाकों पर पूर्णतः प्रतिबंध लागू रहेगा। नवम्बर 2021 की जिलेवार वायु गुणवत्ता सूचकांक सूची संलग्नक- एक पर दर्शित हैं।
- (ii) फटाकों का प्रस्फोटन संवेदनशील क्षेत्रों (Silence Zones) जैसे : अस्पताल, नर्सिंग होम्स, हेल्थ केयर सेंटर, शैक्षणिक संस्थानों, धार्मिक स्थलों इत्यादि से 100 मीटर की दूरी तक प्रतिबंधित है, अतः जिला प्रशासन एवं जिला

पुलिस यह सुनिश्चित करेगा कि संवेदनशील क्षेत्रों के 100 मीटर की दूरी के तक फटाकों का प्रस्फोटन न हो।

2. (i) ग्रीन फटाकों हेतु Petroleum & Explosive Safety Organisation (PESO) व National Environmental Engineering Research Insitiute (NERI) द्वारा स्वेच्छिक वर्गीकरण किया जाता है जिसमें फटाकों के पैकिंग पर लोगो (संलग्नक -दो) प्रिंट रहता है तथा पंजीकृत निर्माताओं की सूची NEERI की वेबसाईट www.neerires.in/file_homes/17164660_Istfireworknda28102021.pdf पर उपलब्ध है। इस लोगो को स्कैन करने पर फटाकों के पंजीकृत निर्माताकर्ता का ^{विवरण} उपलब्ध हो जाता है। ग्रीन फटाकों के Petroleum & Explosive Safety Organisation (PESO) व National Environmental Engineering Research Insitiute (NERI) द्वारा पंजीकृत निर्माताकर्ताओं की सूची संलग्नक - तीन पर दर्शित हैं।
- (ii) ग्रीन फटाकों के अंतर्गत फुलझडी (Sparklers), अनार (Flowerpots) व मेरून (Maroons) आते हैं।
- (iii) फटाकों में बेरियम सॉल्ट इत्यादि विषैले रसायनों का उपयोग प्रतिबंधित है।
- (iv) लड़ी (जुड़े हुए फटाकों) का निर्माण, उपयोग, विक्रय, वितरण एवं प्रस्फोटन भी प्रतिबंधित हैं।
- (v) फटाकों की तीव्रता प्रस्फोटन स्थल से 04 मीटर पर 125 डी.बी.(ए) से अधिक नहीं होना चाहिए।
- (vi) फटाकों की ऑनलाईन सेल (जैसे अमेजॉन, फिलिपकार्ट, इत्यादि से) प्रतिबंधित हैं।
3. मानकों के अनुरूप निर्धारित ध्वनि स्तर के फटाकों का निर्माण एवं विक्रय की जांच हेतु नमूने एकत्रित कर इनका विश्लेषण PESO अथवा म.प्र. प्रदूषण नियंत्रण बोर्ड की प्रयोगशालाओं में कराया जा सकता है। (सूची संलग्नक - चार एवं पांच)
4. माननीय सर्वोच्च न्यायालय एवं माननीय हरित अधिकरण, सेंट्रल जोन, भोपाल के आदेशनुसार केन्द्रीय प्रदूषण नियंत्रण बोर्ड एवं राज्य प्रदूषण नियंत्रण बोर्ड द्वारा कुल 14 दिन (दीपावली से 07 दिन पूर्व एवं दीपावली से 07 दिन पश्चात) परिवेशीय वायु मॉनिटरिंग नियमित पैरामीटर के साथ अन्य प्रदूषक जैसे एल्यूमिनियम,

बेरियम, आयरन, का विश्लेषण भी किया जाना है जिस बावत् मध्यप्रदेश प्रदूषण नियंत्रण बोर्ड की सभी प्रयोगशालाओं को निर्देशित किया जा चुका है।

5. फटाकों के जलने के उपरांत बचे हुये कागज के टुकड़े एवं अधजली बारुद के संपर्क मे आने से पशुओं एवं बच्चों के दुर्घटनाग्रस्त होने की संभावना रहती है। अतः फटाकों के जलने के उपरांत उत्पन्न कचरों को ऐसे स्थानों पर न फेंका जायें जहाँ पर प्राकृतिक जल स्रोत एवं/ पेय जल स्रोत प्रदूषित की संभावना हो। अतः फटाकों के जलने के उपरांत बचे हुये कचरों को पृथक स्थान पर एकत्रित किया जाये तथा नगर निगम के कर्मचारियों को सौंपा जाये। नगर निगम एवं नगर पालिका इस संग्रहित कचरे का पृथक से एकत्रीकरण कर उसका अपवहन सुनिश्चित करें।
6. माननीय सर्वोच्च न्यायालय एवं माननीय हरित अधिकरण, सेंट्रल जोन, भोपाल द्वारा पारित संदर्भित आदेशों एवं उपरोक्तानुसार निर्धारित मानक संचालक प्रक्रिया के पालन हेतु प्रिंट/इलेक्ट्रॉनिक मीडिया एवं स्थानीय केवल नेटवर्क इत्यादि के माध्यम से अधिक से अधिक प्रचार-प्रसार किया जाना है।

संलग्न - उपरोक्तानुसार

क्रमांक 220/प्रनिबो/मॉनीटरिंग/2022
प्रतिलिपि :-

(ए.ए. मिश्रा)
सदस्य सचिव
भोपाल, दिनांक

01/11/22

1. प्रमुख सचिव, पर्यावरण विभाग, म0प्र0 शासन, मंत्रालय की ओर सूचनार्थ।
2. मुख्य विस्फोटक नियंत्रक, पेट्रोलियम एवं विस्फोटक सुरक्षा संगठन, सर्किल कार्यालय, ई-7/41, लालालाजपत सोसायटी, 12 नं. बस स्टॉप के पास, अरेरा कालोनी, भोपाल की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु।
3. समस्त क्षेत्रीय अधिकारी/ क्षेत्रीय प्रयोगशाला प्रभारी, म.प्र. प्रदूषण नियंत्रण बोर्ड, ~~भोपाल~~ की ओर आवश्यक कार्यवाही हेतु प्रेषित।

(ए.ए. मिश्रा)
सदस्य सचिव

01/11/22

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

L.A. No. 44727/2021 in WRIT PETITION(C) NO. 728/2015

Arjun Gopal and others

...Petitioners

Versus

Union of India and others

...Respondents

WITH

WRIT PETITION(C) NO. 891/2016
WRIT PETITION(C) NO. 895/2016
WRIT PETITION(C) NO. 899/2016
WRIT PETITION(C) NO. 213/2017

ORDER

1. The present application has been preferred by the applicants praying for the following directions:

- a) ban the sale, purchase and use of firecrackers in India;
- b) State Governments and police to take immediate appropriate steps against anyone seeking to manufacture, sell or purchase firecrackers;
- c) District Magistrates and Superintendents of Police of every district be made personally accountable if the order for a complete ban on the manufacture, sale, purchase and use of firecrackers is violated;
- d) The Delhi Police be directed to state on affidavit the senior level officer(s) that are to be responsible and personally accountable for ensuring that the ban on transportation of fireworks into Delhi and NCR from outside regions is properly enforced and violators caught and punished; and
- e) suspend the licenses of all manufacturers selling fake 'green crackers' that contained banned substances

and seeking to bring on record the tests done by 'Awaaz Foundation' alleging that the banned firecrackers are being manufactured, used and sold though they are specifically banned by this Court and alleging that 'green crackers'

are being sold in the market by fireworks manufacturers containing chemicals that have been banned by this Court and not only that but even the fake QR codes are printed on the boxes and mislabelling them as 'green crackers'.

2. Earlier by order dated 11.11.2016, by way of interim directions, this Court directed the Central Government to:

- i) suspend all such licences as permit sale of fireworks, wholesale and retail, within the territory of NCR;
- ii) the suspension shall remain in force till further orders of this Court; and
- iii) no such licences shall be granted or renewed till further orders.

While issuing the aforesaid interim directions, this Court took into consideration the harmful effects of fireworks on the ambient air and the lungs, eyes and ears of the people. This Court also took note of the fact that extreme nuisance, noise the fireworks cause to citizens particularly the ailing and the aged.

3. That thereafter, this Court issued further directions in terms of order dated 12.09.2017, reported in (2017) 16 SCC 280 (para 72), which reads as under:

"72. As mentioned above, the health of the people in Delhi and in NCR must take precedence over any commercial or other interest of the applicant or any of the permanent licensees and, therefore, a graded regulation is necessary which would eventually result in a prohibition. Taking all factors into consideration, we are of the view that the following orders and directions are required to be issued and we do so:

72.1. The directions issued by this Court in *Sadar Bazar Fire Works (Pucca Shop) Assn. [Sadar Bazar Fire Works (Pucca Shop) Assn. v. Pankaj Traders, SLP (C) No. 17327 of 1993, order dated 1-11-1993 (SC)]* · [*Sadar Bazar Fire Works (Pucca Shop) Assn. v. Pankaj Traders, SLP (C) No. 17327 of 1993, order dated 22-10-1993 (SC)*] shall stand partially modified to the extent that they are not in conformity with the Explosives Rules which shall be implemented in full by the authorities concerned. Safety from fire hazards is one of our concerns in this regard.

72.2. Specifically, Rule 15 relating to marking on explosives and packages and Rule 84 relating to temporary shops for possession and sale of fireworks during festivals of the Explosives Rules shall be strictly enforced. This should not be construed to mean that the other Rules need not be enforced — all Rules should be enforced. But if the fireworks do not conform to the requirements of Rules 15 and 84, they cannot be sold in NCR, including Delhi and this prohibition is absolute.

72.3. The directions issued and restrictions imposed in the order passed by this Court on 18-7-2005 in *Noise Pollution (5)* [*Noise Pollution (5)*, *In re*, (2005) 5 SCC 733] shall continue to be in force.

72.4. The police authorities and the District Magistrates concerned will ensure that fireworks are not burst in silence zones, that is, an area at least 100 m away from hospitals, nursing homes, primary and district health-care centres, educational institutions, courts, religious places or any other area that may be declared as a silence zone by the authorities concerned.

72.5. The Delhi Police is directed to reduce the grant of temporary licences by about 50% of the number of licences granted in 2016. The number of temporary licences should be capped at 500. Similarly, the States in NCR are restrained from granting more than 50% of the number of temporary licences granted in 2016. The area of distribution of the temporary licences is entirely for the authorities to decide.

72.6. The Union of India will ensure strict compliance with the Notification GSR No. 64 (E) dated 27-1-1992 regarding the ban on import of fireworks. The Union of India is at liberty to update and revise this notification in view of the passage of time and further knowledge gained over the last 25 years and issue a fresh notification, if necessary.

72.7. The Department of Education of the Government of NCT of Delhi and the corresponding Department in other States in NCR shall immediately formulate a plan of action, in not more than 15 days, to reach out to children in all the schools through the school staff, volunteers and NGOs to sensitise and educate school children on the health hazards and ill-effects of breathing polluted air, including air that is polluted due to fireworks. School children should be encouraged to reduce, if not eliminate, the bursting of fireworks as a part of any festivities.

72.8. The Government of NCT of Delhi and other States in NCR may consider interacting with established medical institutions for issuing advisories cautioning people about the health hazards of bursting fireworks.

72.9. The interim direction issued by this Court on 31-7-2017 [*Arjun Gopal v. Union of India* (2017) 16 SCC 310] prohibiting the use of compounds of antimony, lithium, mercury, arsenic and lead in the manufacture of fireworks is made absolute. In addition, the use of strontium chromate in the manufacture of fireworks is prohibited.

72.10. Fireworks containing aluminium, sulphur, potassium and barium may be sold in Delhi and in NCR, provided the composition already approved by PESO is maintained. It is the responsibility of PESO to ensure compliance with the standards it has formulated.

72.11. Since there are enough fireworks available for sale in Delhi and NCR, the transport of fireworks into Delhi and NCR from outside the region is prohibited and the law enforcement authorities concerned will ensure that there is no further entry of fireworks into Delhi and NCR till further orders. In our opinion, even 50,00,000 kg of fireworks is far more than enough for Dussehra and Diwali in 2017. The permanent licensees are at liberty to exhaust their existing stock of fireworks in Delhi and NCR and, if that is not possible, take measures to transport the stocks outside Delhi and NCR.

72.12. The suspension of permanent licences as directed by the order dated 11-11-2016 [*Arjun Gopal v. Union of India*, (2017) 1 SCC 412] is lifted for the time being. This might require a review after Diwali depending on the ambient air quality post Diwali. However, it is made explicit that the sale of fireworks by the permanent licensees must conform to the directions given above and must be fully in compliance with the Explosives Rules. We were informed that the permanent licences were issued by PESO and therefore the responsibility is on PESO to ensure compliance.

72.13. While lifting the suspension on the permanent licences already granted, we put these licensees on notice for Dussehra and Diwali in 2018 that they will be permitted to possess and sell only 50% of the quantity permitted in 2017 and that this will substantially reduce over the next couple of years. The permanent licensees are at liberty to file objections to this proposed direction within 30 days from today and thereafter the objections if any will be heard and decided. If no objections are filed, this direction will become absolute without any further reference to any licensee.

72.14. Since there is a lack of clarity on the safety limits of various metals and constituents used in fireworks, a research study must be jointly carried out by the

CPCB and the FDRC laying down appropriate standards for ambient air quality in relation to the bursting of fireworks and the release of their constituents in the air. While Schedule VII to the Environment (Protection) Rules, 1986 does deal with several metals, but as we have seen there are several other metals or constituents of fireworks that have not been studied by the CPCB and no standards have been laid down with regard to the concentration of these metals or constituents in the ambient air. The CPCB has assured us that it will complete the exercise by 15-9-2017 but keeping in mind its track record subsequent to the order dated 11-11-2016 [*Arjun Gopal v. Union of India*, (2017) 1 SCC 412] this does not seem possible. Therefore, we grant time to the CPCB to come out with definite standards on or before 30-9-2017.

72.15. In any event, a research study also needs to be conducted on the impact of bursting fireworks during Dussehra and Diwali on the health of the people. We, therefore, appoint a Committee to be chaired by the Chairperson of the CPCB and consisting of officers at the appropriate level from the National Physical Laboratory, Delhi; the Defence Institute of Physiology and Allied Sciences, Timarpur, Delhi; the Indian Institute of Technology, Kanpur; scientists from the State Pollution Control Boards, the Fire Development and Research Centre, Sivakasi and Nagpur and the National Environment Engineering Research Institute (NEERI) nominated by the Chairperson of the CPCB to submit a report in this regard preferably on or before 31-12-2017.

72.16. Keeping in mind the adverse effects of air pollution, the human right to breathe clean air and the human right to health, the Central Government and other authorities should consider encouraging display of fireworks through community participation rather than individual bursting of fireworks."

4. That thereafter, vide further directions dated 23.10.2018 and after considering the affidavit filed on behalf of the Ministry of Environment, this Court issued further interim directions/directions contained in para 48 (reported in (2019) 13 SCC 523), which reads as under:

48. We are of the opinion that the aforesaid suggestions strike a nice balance between the two competing interests. We accept the aforesaid measures as suggested by the Union of India and direct the Union of India and other authorities concerned to implement the same with immediate effect. In view

thereof, the following specific directions are issued:

- 48.1.** The crackers with reduced emission (improved crackers) and green crackers, as mentioned in Suggestions II and III above only would be permitted to be manufactured and sold.
- 48.2.** As a consequence, production and sale of crackers other than those mentioned in Suggestions II and III is hereby banned.
- 48.3.** The manufacture, sale and use of joined firecrackers (series crackers or *laris*) is hereby banned as the same causes huge air, noise and solid waste problems.
- 48.4.** The sale shall only be through licensed traders and it shall be ensured that these licensed traders are selling those firecrackers which are permitted by this order.
- 48.5.** No e-commerce websites, including Flipkart, Amazon, etc., shall accept any online orders and effect online sales. Any such e-commerce companies found selling crackers online will be hauled up for contempt of court and the Court may also pass, in that eventuality, orders of monetary penalties as well.
- 48.6.** Barium salts in the fireworks is also hereby banned.
- 48.7.** PESO is directed to review the clinical composition of fireworks, particularly reducing Aluminium content, and shall submit its report in respect thereof within a period of two weeks from today. For undertaking this exercise, PESO would also associate FRDC.
- 48.8.** Even those crackers which have already been produced and they do not fulfil the conditions mentioned in Suggestions II and III above will not be allowed to be sold in Delhi and NCR.
- 48.9.** PESO will ensure fireworks with permitted chemicals only to be purchased/possessed/sold/used during Diwali and all other religious festivals, of any religion whatsoever, and other occasions like marriages, etc. It shall test and check for the presence of banned chemicals like lithium/arsenic/antimony/lead/mercury.
- 48.10.** PESO will ensure suspension of the licences of manufacturers of such fireworks items and appropriate disposal of such stock.
- 48.11.** PESO will ensure that only those crackers whose decibel (sound) level are within the limits are allowed in the market and will ensure to take action by suspending the licences of the manufacturers on such violations and disposal of such lots. To add to it, as mentioned in the order dated 12-9-2017 [*Arjun Gopal v. Union of India*, (2017) 16 SCC 280], the directions issued and restrictions imposed in the order passed by this Court on 18-7-2005 in *Noise Pollution (5)* [*Noise Pollution (5)*, *In re*, (2005) 5 SCC 733] shall continue to be in force.

48.12. Directions 4 to 9 and 11 contained in the order dated 12-9-2017 [*Arjun Gopal v. Union of India*, (2017) 16 SCC 280] shall continue to operate and are reiterated again.

48.13. Extensive public awareness campaigns shall be taken up by the Central Government/State Governments/Schools/Colleges informing the public about the harmful effects of firecrackers.

48.14. On Diwali days or on any other festivals like *Gurupurab*, etc., when such fireworks generally take place, it would strictly be from 8.00 p.m. till 10.00 p.m. only. On Christmas eve and New Year's eve, when such fireworks start around midnight i.e. 12.00 a.m., it would be from 11.55 p.m. till 12.30 a.m. only.

48.15. The Union of India, Government of NCT of Delhi and the State Governments of NCR would permit community firecracking only (for Diwali and other festivals, etc. as mentioned above), wherever it can be done. For this purpose, particular area/fields would be pre-identified and predesignated by the authorities concerned. This exercise shall be completed within a period of one week from today so that the public at large is informed about the designated places one week before Diwali. The areas designated now for the purpose of Diwali shall be valid for community firecracking on other occasions/festivals as well, as mentioned above. Even for marriages and other occasions, sale of improved crackers and green crackers is only permitted. Insofar as other States are concerned, an endeavour shall be made by them also to explore the feasibility of community firecracking. However, it is made clear that Direction 48.14 pertaining to the duration within which fireworks can take place on all such occasions would be applicable throughout India. Similarly, Direction 48.13 for extensive public awareness campaigns is also a pan India direction.

48.16. All the official respondents, and particularly the police, shall ensure that fireworks take place only during the designated time and at designated places, as mentioned above. They shall also ensure that there is no sale of banned firecrackers. In case any violation is found, the Station House Officer (SHO) of the police station of the area concerned shall be held personally liable for such violation and this would amount to committing contempt of the Court, for which such SHO(s) would be proceeded against.

48.17. CPCB and respective State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) of the States and Union Territories shall carry out short-term monitoring in their cities for 14 days (commencing from 7 days prior to Diwali and ending 7 days after Diwali) for the parameters namely, aluminium, barium, iron apart from the regulatory parameters against the short-term Ambient Air Quality Criteria Values (AAQCVs) proposed by CPCB with regard to bursting of

firecrackers. This will help in generation of data on pollution caused by the bursting of firecrackers and would be helpful for regulation and control quantity of aluminium, barium and iron used in the manufacture of firecrackers.

5. That thereafter, this Court had an occasion to consider the prayer made on behalf of the Fireworks Manufacturers to permit manufacture of fireworks with Barium substitute, i.e, Barium Nitrate. However, the same has not been permitted till date and use of Barium Salts in the fireworks is continued to be banned.

6. It is unfortunate that despite the various directions issued by this Court referred to hereinabove, there is a blatant violation of various directions issued by this Court and it is alleged that manufacture, sale and use of banned fireworks have been continued. Even though they are banned, the manufacturing, selling and using of joined firecrackers have been continued and the same is being used in blatant violation of the directions issued by this Court. It is reported that even under the guise of 'green crackers' banned chemicals firecrackers are being sold and there is a mislabelling on the boxes and even the QR codes provided on the boxes of 'green crackers' are alleged to be fake.

7. There is a report submitted by the CBI submitted pursuant to the earlier directions/orders passed by this Court and it prima facie appears that there is a blatant violation of the directions issued by this Court by the respective manufacturers and the banned firecrackers are being sold and used in the

markets. The allegations, if found to be true, are very serious and cannot be tolerated. Everybody including the implementing agencies are bound to see that the directions issued by the Courts are implemented and followed in its true spirit and in toto. It prima facie appears that the implementing agencies of the concerned States either lack desire to implement the directions issued by this Court or they close their eyes for whatever reasons. Despite the use of Barium Salts in the firecrackers was banned; manufacture and use of the joined fireworks have been banned and transporting and selling them across the country have also been banned physically and/or online, the banned firecrackers are being manufactured, transported, sold and used. From the earlier directions, it can be seen that even the responsibility to see that the directions issued by this Court are complied with by all concerned was on the concerned District Magistrates and the Police officials.

8. Considering the fact that earlier directions issued by this Court which have been issued by this Court from time to time in the larger public interest and having found that such use of banned fireworks affects the health of the other innocent citizens including the senior citizens and the children, it is the duty of all the States/State Agencies to see that the directions issued by this Court in the earlier orders reproduced hereinabove are strictly complied with. No authority can be permitted the violation of the directions issued by this Court and permit banned firecrackers under the guise of celebration. Celebration cannot be at the cost of the other's health. Under the guise of

celebration, nobody can be permitted to infringe the right to health of the others, guaranteed under Article 21 of the Constitution of India and nobody can be permitted to play with the life of the others, more particularly the senior citizens and the children. It is made clear that there is no total ban on use of firecrackers. Only those firecrackers are banned, as directed hereinabove, which are found to be injurious to health and affecting the health of the citizens, more particularly the senior citizens and the children.

9. Before passing any further orders and while adjourning the present application, we again reiterate the directions issued by this Court earlier reproduced hereinabove including banning the use of Barium Salts in the firecrackers and manufacturing and selling joined firecrackers and other directions issued by this Court reproduced hereinabove. We direct all the States/Union Territories to see that the directions issued earlier by this Court and issued by this Court today are strictly complied with in its true spirit and in toto. Any lapse on the part of the State Governments/State Agencies and Union Territories shall be viewed very seriously and if it is found that any banned firecrackers are manufactured, sold and used in any particular area, the Chief Secretary of the concerned State(s), the Secretary (Homes) of the concerned State(s) and the Commissioner of Police of the concerned area, District Superintendent of Police of the concerned area and the SHO/Police Officer in-charge of the concerned police station shall be held personally liable. Nobody can be permitted to flout and/or disobey the directions issued

by this Court/Courts. Any wilful and deliberate disobedience shall have to be viewed very seriously.

10. All States/Union Territories are directed to give due publicity through electronic media/print media/local cable services to make the people aware and know the directions issued by this Court issued hereinabove with respect to manufacture, use and sale of banned firecrackers.

11. With the above directions, the present application is adjourned to 30.11.2021 for further hearing.

.....J.
[M.R. SHAH]

NEW DELHI;
OCTOBER 29, 2021.

.....J.
[A.S. BOPANNA]

ITEM NO.31
(Part-Heard)

Court 13 (Video Conferencing)

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
Writ Petition (Civil) No. 728/2015

ARJUN GOPAL & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA . & ORS.

Respondent(s)

(IA No. 178878/2018 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 76593/2019 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 72421/2019 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 15541/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 24794/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 119396/2017 - CLARIFICATION/DIRECTION
IA No. 110450/2021 - CLARIFICATION/DIRECTION
IA No. 44727/2021 - CLARIFICATION/DIRECTION
IA No. 13877/2019 - EXEMPTION FROM FILING O.T.
IA No. 178876/2018 - INTERVENTION/IMPLEADMENT
IA No. 10915/2019 - INTERVENTION/IMPLEADMENT
IA No. 4/2019 - INTERVENTION/IMPLEADMENT
IA No. 58280/2021 - INTERVENTION/IMPLEADMENT
IA No. 179554/2018 - INTERVENTION/IMPLEADMENT
IA No. 179145/2018 - INTERVENTION/IMPLEADMENT
IA No. 179036/2018 - INTERVENTION/IMPLEADMENT
IA No. 105478/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

WITH

W.P.(C) No. 891/2016 (PIL-W)

W.P.(C) No. 895/2016 (PIL-W)

W.P.(C) No. 899/2016 (PIL-W)

W.P.(C) No. 213/2017 (PIL-W)

Date : 29-10-2021 These matters were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE A.S. BOPANNA

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Petitioner-in-person

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Mr. S. Udaya Kumar Sagar, AOR
Ms. Sweena Nair, Adv.

Mr. Avijit Mani Tripathi, AOR,
Mr. Shaurya Sahay, Adv.
Ms. Tarini K. Nayak, Adv.

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

I.A. No. 44727/2021 in WRIT PETITION(C) NO. 728/2015

With the directions as mentioned in the signed order, the
present application is adjourned to 30.11.2021 for further hearing.

(NEETU SACHDEVA)
COURT MASTER (SH)

(signed order is placed on the file)

(NISHA TRIPATHI)
BRANCH OFFICER

Item No. 01

(6)
2021-10-11

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No. 76/2021(CZ)

Dr. P. G. Najpandey

Applicant (s)

Versus

Chief Secretary & Ors.

Respondent(s)

Date of hearing: **27.10.2021**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s):

Mr. Prabhat Yadav, Adv

For Respondent(s):

None

ORDER

1. The main issue raised in this application is remedial action against pollution by use of fire crackers, aggravating the menace of Covid-19 pandemic, posing higher danger to the lives and health of the vulnerable groups.
2. The Hon'ble Supreme Court, considering the adverse impact of crackers on air quality and adverse impact of air pollution on health, directed, vide Order dated 11.11.2016 as follows:

"We direct the Central Government to:

 - (i) *Suspend all such licenses as permit sale of fireworks, wholesale and retail, within the territory of NCR.*
 - (ii) *The suspension shall remain in force till further orders of this Court.*
 - (iii) *No such licenses shall be granted or renewed till further orders."*
3. Thereafter, on 12.09.2017, in *Arjun Gopal v. Union of India* (2017) 16 SCC 280 it was observed that instead of total prohibition, graded regulation of fire crackers was necessary, which would eventually result in prohibition. Accordingly, the earlier order was modified to restrict the temporary licenses to 50%, pending further consideration.

- (7)
4. Thereafter, vide order dated 23.10.2018, in *Arjun Gopal v. Union of India*, (2019) 13 SCC 523, while banning certain categories of fire crackers and directing regulation of the remaining, it was inter-alia directed that on Diwali days or other festivals, fire crackers will be used strictly between 8 p.m. to 10 p.m. only with different timings for some other festivals. Further, the Union of India, Government of NCT of Delhi and the State Governments of NCR would permit **community fire crackers** only (for Diwali and other festivals, etc. as mentioned above), wherever it can be done. The operative part of the order is as follows:

"48. We are of the opinion that the aforesaid suggestions strike a nice balance between the two competing interests. We accept the aforesaid measures as suggested by the Union of India and direct the Union of India and other authorities concerned to implement the same with immediate effect. In view thereof, the following specific directions are issued:

48.1. The crackers with reduced emission (improved crackers) and green crackers, as mentioned in Suggestions II and III above only would be permitted to be manufactured and sold.

48.2. As a consequence, production and sale of crackers other than those mentioned in Suggestions II and III is hereby banned.

48.3. The manufacture, sale and use of joined firecrackers (series crackers or laris) is hereby banned as the same causes huge air, noise and solid waste problems.

48.4. The sale shall only be through licensed traders and it shall be ensured that these licensed traders are selling those firecrackers which are permitted by this order.

48.5. No e-commerce websites, including Flipkart, Amazon, etc., shall accept any online orders and effect online sales. Any such e-commerce companies found selling crackers online will be hauled up for contempt of court and the Court may also pass, in that eventuality, orders of monetary penalties as well.

48.6. Barium salts in the fireworks is also hereby banned.

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48.7. PESO is directed to review the clinical composition of fireworks, particularly reducing Aluminium content, and shall submit its report in respect thereof within a period of two weeks from today. For undertaking this exercise, PESO would also associate FRDC.

48.8. Even those crackers which have already been produced and they do not fulfil the conditions mentioned in Suggestions II and III above will not be allowed to be sold in Delhi and NCR.

48.9. PESO will ensure fireworks with permitted chemicals only to be purchased/possessed/sold/used during Diwali and all other religious festivals, of any religion whatsoever, and other occasions like marriages, etc. It shall test and check for the presence of banned chemicals like lithium/arsenic/antimony/lead/mercury.

48.10. PESO will ensure suspension of the licences of manufacturers of such fireworks items and appropriate disposal of such stock.

48.11. PESO will ensure that only those crackers whose decibel (sound) level are within the limits are allowed in the market and will ensure to take action by suspending the licences of the manufacturers on such violations and disposal of such lots. To add to it, as mentioned in the order dated 12-9-2017, the directions issued and restrictions imposed in the order passed by this Court on 18-7-2005 in Noise Pollution shall continue to be in force.

48.12. Directions 4 to 9 and 11 contained in the order dated 12-9-2017 shall continue to operate and are reiterated again.

48.13. Extensive public awareness campaigns shall be taken up by the Central Government/State Governments /Schools/ Colleges informing the public about the harmful effects of firecrackers.

48.14. On Diwali days or on any other festivals like Gurupurab, etc., when such fireworks generally take place, it would strictly be from 8.00 p.m. till 10.00 p.m. only. On Christmas eve and New Year's eve, when such fireworks start around midnight i.e. 12.00 a.m., it would be from 11.55 p.m. till 12.30 a.m. only.

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48.15. The Union of India, Government of NCT of Delhi and the State Governments of NCR would permit community fire cracking only (for Diwali and other festivals, etc. as mentioned above), wherever it can be done. For this purpose, particular area/fields would be pre-identified and predesignated by the authorities concerned. This exercise shall be completed within a period of one week from today so that the public at large is informed about the designated places one week before Diwali. The areas designated now for the purpose of Diwali shall be valid for community fire cracking on other occasions/festivals as well, as mentioned above. Even for marriages and other occasions, sale of improved crackers and green crackers is only permitted. Insofar as other States are concerned, an endeavour shall be made by them also to explore the feasibility of community fire cracking. However, it is made clear that Direction 48.14 pertaining to the duration within which fireworks can take place on all such occasions would be applicable throughout India. Similarly, Direction 48.13 for extensive public awareness campaigns is also a pan India direction.

48.16. All the official respondents, and particularly the police, shall ensure that fireworks take place only during the designated time and at designated places, as mentioned above. They shall also ensure that there is no sale of banned firecrackers. In case any violation is found, the Station House Officer (SHO) of the police station of the area concerned shall be held personally liable for such violation and this would amount to committing contempt of the Court, for which such SHO(s) would be proceeded against.

48.17. CPCB and respective State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) of the States and Union Territories shall carry out short term monitoring in their cities for 14 days (commencing from 7 days prior to Diwali and ending 7 days after Diwali) for the parameters namely, aluminium, barium, iron apart from the regulatory parameters against the short-term Ambient Air Quality Criteria Values (AAQCVs) proposed by CPCB with regard to bursting of firecrackers. This will help in generation of data on pollution caused by the bursting of firecrackers and would be helpful for regulation and control quantity of aluminium, barium and iron used in the manufacture of firecrackers.

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5. While issuing the above directions, 'Precautionary' principle was invoked with the following observations:

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(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

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38. The precautionary principle accepted in the aforesaid judgment was further elaborated in A.P. Pollution Control Board case [A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718] as under: (SCC pp. 732-34, paras 31-35)

"31. The "uncertainty" of scientific proof and its changing frontiers from time to time has led to great changes in environmental concepts during the period between the Stockholm Conference of 1972 and the Rio Conference of 1992. In Vellore Citizens' Welfare Forum v. Union of India [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647] a three-Judge Bench of this Court referred to these changes, to the "precautionary principle" and the new concept of "burden of proof" in environmental matters. Kuldip Singh, J. after referring to the principles evolved in various international conferences and to the concept of "sustainable development", stated that the precautionary principle, the polluter pays principle and the special concept of onus of proof have now emerged and govern the law in our country too, as is clear from Articles 47, 48-A and 51-A(g) of our Constitution and that, in fact, in the various environmental statutes, such as the Water Act, 1974 and other statutes, including the Environment

(Protection) Act, 1986, these concepts are already implied. The learned Judge declared that these principles have now become part of our law.

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33. A basic shift in the approach to environmental protection occurred initially between 1972 and 1982. Earlier, the concept was based on the "assimilative capacity" rule as revealed from Principle 6 of the Stockholm Declaration of the U.N. Conference on Human Environment, 1972. The said principle assumed that science could provide policy-makers with the information and means necessary to avoid encroaching upon the capacity of the environment to assimilate impacts and it presumed that relevant technical expertise would be available when environmental harm was predicted and there would be sufficient time to act in order to avoid such harm. But in the 11th Principle of the U.N. General Assembly Resolution on World Charter for Nature, 1982, the emphasis shifted to the "precautionary principle"

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'There is nothing to prevent decision-makers from assessing the record and concluding that there is inadequate information on which to reach a determination. If it is not possible to make a decision with "some" confidence, then it makes sense to err on the side of caution and prevent activities that may cause serious or irreversible harm. An informed decision can be made at a later stage when additional data is available or resources permit further research. To ensure that greater caution is taken in environmental management, implementation of the

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principle through judicial and legislative means is necessary.'

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44. Applying the aforesaid principle, in the first blush it may appear that the aforesaid argument has substantial force in it. However, that would be only one side of the picture as there are two contra-arguments which are sufficient to take the sheen out of the aforesaid plea. First aspect is that the argument of economic hardship is pitched against right to health and life. When the Court is called upon to protect the right to life, economic effect of a particular measure for the protection of such right to health will have to give way to this fundamental right. Second factor, which is equally important, is that the economic loss to the State is pitched against the economic loss in the form of cost of treatment for treating the ailments with which people suffer as a result of burning of these crackers. Health hazards in the form of various diseases that are the direct result of burning of crackers have already been noted above. It leads to asthma, coughing, bronchitis, retarded nervous system breakdown and even cognitive impairment. Some of the diseases continue on a prolonged basis. Some of these which are caused because of high level of $PM_{2.5}$ are even irreversible. In such cases, patients may have to continue to get the medical treatment for much longer period and even for life. Though there are no statistics as to what would be the cost for treating such diseases which are as a direct consequence of fireworks on these occasions like Diwali, it can safely be said that this may also be substantial. It may be more than the revenue which is generated from the manufacturers of the crackers.

However, we say no more for want of precise statistical data in this behalf."

6. The effect of air pollution, aggravated by use of fire crackers on pandemic Covid-19 was considered by the Principal Bench of this Tribunal in O.A. No. 249 of 2020 and vide order dated 09.11.2020, it was observed as follows:

*"14. Shri Panjwani referred to the articles referred to above during hearing. In 'A. Pozzer et al, 'Regional and global contributions of air pollution to risk of death from COVID-19' Cardiovascular Research, which is an article published by the **European Society of Cardiology**, revised on 03.10.2020, a study has been conducted about the nexus of Covid-19 and air pollution using relevant data and attributable fraction. It is opined that both the air pollutant PM_{2.5} and the SARS-CoV-2 virus enter the lungs via the bronchial system (portal organ), with potential systemic health impacts through the blood circulation. Both PM_{2.5} and SARS-CoV-2 cause vascular endothelial dysfunction, oxidative stress, inflammatory responses, thrombosis, and an increase in immune cells. The SARSCoV-2 infection facilitates the induction of endothelial inflammation in several organs as a direct consequence of viral cytotoxic effects and the host inflammatory response, which can aggravate pre-existing chronic respiratory and vascular (coronary) dysfunction, and cause lung injury by alveolar damage, as well as stroke and myocardial infarction by inducing plaque rupture. Potential common pathophysiological mechanisms of increased risk thus relate to endothelial injury and pathways that regulate immune function. Further, there are strong indications of increased susceptibility to viral infections from exposure to air pollution.*

Lung injuries, including the life-threatening acute respiratory distress syndrome and respiratory failure, as well as acute coronary syndrome, arrhythmia, myocarditis, and heart failure, were shown to be clinically dominant, leading to critical complications of COVID-19. Recent studies in China, the USA, as well as Europe indicate that patients with cardiovascular risk factors or established cardiovascular disease and other comorbid conditions are predisposed to myocardial injury during the course of COVID19. From the available information, it thus follows that air pollution-induced inflammation leads to greater vulnerability and less resiliency, and the pre-conditions increase the host vulnerability. Air pollution causes adverse events through

myocardial infarction and stroke, and it is an additional factor capable of increasing blood pressure, while there is emerging evidence for a link with type 2 diabetes and a possible contribution to obesity and enhanced insulin resistance. Bronchopulmonary and cardiovascular preconditions, including hypertension, diabetes, coronary artery disease, cardiomyopathy, asthma, COPD, and acute lower respiratory illness, all negatively influenced by air pollution, lead to a substantially higher mortality risk in COVID-19. Furthermore, it seems likely that fine particulates prolong the atmospheric lifetime of infectious viruses, thus favouring transmission. It is possible that future research will reveal additional pathways that mediate the relationship between air pollution and the risk of death from COVID-19.

15. In article by Aparna Banerjee titled 'After studies, it's clear that air pollution contributes to Covid mortality: ICMR' Mint, 27 October 2020', it is mentioned that the ICMR studies have proved that long-term exposure to air pollution has been linked to an increased risk of dying from Covid-19. It is further stated that there have been studies from Europe and US, where they have looked at polluted areas and have compared mortality during lockdown and correlation with pollution. "It is found that pollution is contributing to mortality in COVID, that's well established by studies," said Dr. Balram Bhargava, DG ICMR, in a health ministry briefing today.

According to a study, published in Cardiovascular Research, scientists estimated that about 15% of deaths worldwide from COVID-19 could be attributed to long-term exposure to air pollution. In Europe the proportion was about 19%, in North America it was 17%, and in East Asia about 27%.

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The study further mentions that the Air Quality Index (AQI) (as on 04.11.2020) was recorded at 346 in Rohini, 329 in RK Puram, 377 in Anand Vihar, and 363 in Mundka, all four in the 'very poor' category, as per Central Pollution Control Board (CPCB) data. In an attempt to curb the increasing air pollution in the national capital, the Delhi government recently launched the 'Red Light On, Gaadi Off' campaign as part of its 'Yuddh Pradushan Ke Viruddh' (War Against Pollution) initiative. Along with this, Delhi Environment Minister Gopal Rai had also announced the launch of a campaign starting on Monday to include the citizens of the capital in raising awareness on air pollution.

16. In article by Sandipan Talukdar titled '**Air Pollution May Account for 15% of COVID-19 Deaths Worldwide, Says New Study**', News Click, 28 October 2020, similar observations have been made.

It is stated that Prof. Jos Lelieveld of Max Planck Institute of Chemistry, Mainz, Germany, and a corresponding author of the study said "Since the numbers of deaths from COVID-19 are increasing all the time, it's not possible to give exact or final numbers of COVID-19 deaths per country that can be attributed to air pollution. However, as an example, in the UK there have been over 44,000 coronavirus deaths and we estimate that the fraction attributable to air pollution is 14%, meaning that more than 6,100 deaths could be attributed to air pollution. In the USA, more than 220,000 COVID deaths with a fraction of 18% yields about 40,000 deaths attributable to air pollution."

On the mechanism of how PM_{2.5} can aggravate the respiratory disease, Prof. Thomas Munzel of Gutenberg University, Germany, said "When people inhale polluted air, the very small polluting particles, the PM_{2.5}, migrate from the lungs to the blood and blood vessels, causing inflammation and severe oxidative stress, which is an imbalance between free radicals and oxidants in the body that normally repair damage to cells. This causes damage to the inner lining of arteries, the endothelium, and leads to the narrowing and stiffening of the arteries. The COVID-19 virus also enters the body via the lungs, causing similar damage to blood vessels, and it is now considered to be an endothelial disease."

"If both long-term exposure to air pollution and infection with the COVID-19 virus come together then we have an additive adverse effect on health, particularly with respect to the heart and blood vessels, which leads to greater vulnerability and less resilience to COVID-19. If you already have heart disease, then air pollution and coronavirus infection will cause trouble that can lead to heart attacks, heart failure and stroke," he further added. The study also shows a country wide estimation of COVID-19 deaths attributable to long term air pollution exposure. According to it, Czech Republic has a share of 29%, China 26%, Germany 22%, Italy 15% and so on. New Zealand has a very low share of 1%.

Extending this analogy to Indian conditions, it is possible to infer that deaths attributable to pollution in India may not be less than 15%."

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19. In 'State of Global Air 2020' report released by the Health Effects Institute and the Institute for Health Metrics and Evaluation's Global Burden of Disease Project, it is stated that:

"Extensive evidence links exposure to air pollution with higher rates of respiratory and cardiovascular diseases including lower-

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respiratory infections. **Could air pollution also increase a person's risk of developing a COVID-19 respiratory infection or suffering its most severe complications?**

There is reason to believe it could SARS-CoV-2, the corona virus that causes COVID-19, is a respiratory virus that can affect the lungs, blood vessels, and many other parts of the body. Exposure to air pollution has been shown to affect the body's immune defense, making an individual more susceptible to respiratory and other infections. In addition, many of the health conditions that have been associated with increased vulnerability to COVID-19-such as diabetes, cardiovascular disease, and chronic obstructive lung diseases-are also caused by long-term exposure to air pollution.

What we learned from the SARS-CoV-1 outbreak in 2002-2004 offers some insight into the interaction between air pollution and the effects of COVID-19. Several studies reported an association between higher air pollution concentrations and higher than expected death rates from SARS-CoV-1 handful of early studies of COVID-19 appear to suggest that areas with higher air pollution concentrations-PM2.5 or NO2 in particular might similarly experience either higher infection rates or higher case fatality rates. Investigators around the world are hard at work trying to understand fully the linkages between COVID19 and air pollution, and how exposure to air pollution might affect rates of COVID-19 infection, the severity of disease, or the likelihood of dying."

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Media Reports Referred

22. Following media reports have also been referred to by learned Amicus:

- i. 'Coronavirus: Delhi health minister blames pollution, winters, festive season for rise in cases', Scroll.in, 31 October 2020
- ii. Abantika Ghosh, 'Covid virus found on pollution particles, masks & social distancing a must, say govt experts', ThePrint, 27 October 2020.
- iii. Durgesh Nandan Jha, 'From Record 5.9k Last Fri, City Cases Soar To 6,725', The Times of India, 4 November, 2020."

The above media reports refer to the nexus between air pollution and deaths and diseases particularly during winter and festive season with reference to the statements of the Delhi Health Minister and the Union Health Minister in support of the said statement. **There is further reference to apprehended increase of Covid cases on account of air increased pollution.**

The news item in 'Times of India' dated 04.11.2020 mentions that Delhi recorded 6,725 new cases of Covid-19 – its highest singleday tally – on Tuesday, taking the total number of cases to over 4,00,000 even as hospitals struggled to accommodate the critically ill patients due to paucity of ICU beds. This is leading to increased demand for the hospital beds and increased mortality figures. The increasing trend is clearly attributable to the deteriorating air pollution level.

Other Media reports and Global Trends

23. Apart from the media reports relied upon by the learned Amicus, there are other media reports to which reference may be made as follows:

- a) ASRP Mukesh, 'Ban firecrackers or prepare for Covid disaster, warn docs' Times of India, 30 October, 2020
- b) Science, 'Smoky firecrackers can spread coronavirus faster: Experts, Deccan Chronical, 4 November, 2020
- c) Cole Sullivan, 'COVID cancellations hit fireworks display companies hard' 10 News, 11.06.2020
- d) 'BEFORE BURNING CRACKERS LOOK AT US AND BE CONSIDERATE, SYMPATHETIC AND HUMANE' URGES COVID RECOVERED PATIENTS "DEEPAVALI DOES NOT MEAN BURNING CRACKERS FOR ENJOYMENT"- BISWAJIT MUKHERJEE 07.11.2020, PIB Kolkata
- e) 'After falling for 7 weeks, Covid-19 cases in India rise', Times of India, 09.11.2020.
- f) Stephanie Pagones, 'Coronavirus-prompted July 4th cancellations leave fireworks display companies 'on life support', FOX Business, 02.07.2020
- g) Joanna York, 'What will France's July 14 celebrations look like this year? Celebrations will still take place in France on 14 July this year, but with some differences due to the Covid-19 crisis, the Connexion, 06.11.2020
- h) Tim Baker, 'Coronavirus: London's New Year's Eve fireworks cancelled due to pandemic', Sky News, 18.09.2020
- i) Wong Shiying, 'No fireworks display at Marina Bay New Year's Eve countdown this year', the Straits Times, 05.11.2020.16

As per (a), there is a statement by Jharkhand chapter of Indian Medical Association (IMA) that smoke from firecrackers during Diwali can turn out to be fatal for Covid-19 patients. The report particularly mentions the names of the State President Dr. A.K. Singh and Dr. Pradeep Bhattacharjee. It is also further mentioned that winter dry air can aggravate breathing

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difficulties, especially among those suffering from lung ailments. Smoke from crackers can turn out to be recipe for disaster. Pollutants released will remain suspended in cool air for a long duration.

The reports (b) & (e) show discussion that ban on fire crackers is imperative to prevent harm on account of Covid-19 which will be aggravated by use of fire crackers.

The media reports from (f) to (i) show that having regard to the Covid situation, fireworks display was cancelled in several other countries."

7. Question for consideration is whether to give effect to victims of pollution and for protection of environment, any further direction is called for by this Tribunal under Section 15 read with Section 20 of the National Green Tribunal Act, 2010. The adverse effect of use of fire crackers on air quality, adding to the pollution and aggravation of covid-19 pandemic has already been discussed at length and finding recorded in the order dated 09.11.2020. Pandemic covid-19 is not yet over. The use of fire crackers is not confined to the month of November but continues even thereafter to celebrate different occasions, including marriages, sports, etc. The Precautionary principle, thus, continues to remain relevant to avoid damage to the environment and public health. The use of crackers needs to be controlled and regulated, depending upon the air quality at the location where fire crackers are to be used. Thus, a graded response to air pollution appears to be essential, even beyond November till the pandemic covid-19 is controlled.
8. The crackers create noise as well as air pollution and laid down parameters may at time stand violated. The subject of noise pollution, including that by crackers is being considered by this Tribunal in O.A No. 519/2016, *Hardeep Singh & Ors vs. SDMC & Ors*. The Tribunal has issued directions for taking steps Pan India against violation of noise pollution norms, to give effect to the judgment of the Hon'ble

Supreme Court in *Re: Noise Pollution-implementation of the Laws for Restricting Use of Loudspeakers and High-Volume Producing Sound Systems*, (2005) 5 SCC 733. The Tribunal considered the report of the CPCB with regard to the compensation to be recovered for violation of the noise norms by crackers, which is offence not only under the Noise Pollution (Regulation & Control) Rules, 2000 read with the Environment (Protection) Act, 1986, but also under IPC Sections 268, 285, 286, 290, 291 etc. The compensation regime suggested by the CPCB in its report dated 12.06.2020 is as follows:

Sr. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority
1.	Xxx	Xxx	Xxx
2.	Xxx	Xxx	Xxx
3.	Xxx	Xxx	Xxx
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon'ble Supreme Court and Clause 5A (2) and 6 (iv)⁷⁻⁸		
		Residential / Commercial/ Mixed Zone Silence Zone	Silence Zone
4(1)	Violation by Individual/ Household	1,000	3,000
4(2)	Violation during Possession a. Public Rallies b. Barat during marriage Religious event	10,000.	20,000 Fine to be paid by Organizer
4(3)	First Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall f. Open ground functions	20,000	Fine to be paid by Organizer and Owner of the place.
4(4)	Second Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall Open ground Function	40,000	
4(5)	More than Two Violation within a fixed Premises:	1,00,000 and action under EP Act.	Sealing of Premises

a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall Open ground function		
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Note:

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"7. Sound emitting fire crackers shall not be burst in silence zone or during' night time in each zone."

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9. It may be noted that imposition of fine for notification of Rule 5A (1) falls within the purview of Motor Vehicle Rules, 2019"

9. The above recommendation was approved by the Tribunal vide order dated 11.08.2020 as follows:

"12.We are of the view that the compensation scale laid down by the CPCB may be enforced throughout India. **The CPCB may issue appropriate statutory orders for the purpose for being complied with in all the States/UTs.**"

10. However, since the above scale of compensation takes into account only violation of noise norms, we direct that for air pollution, equal amount of compensation will be added. The amount will be credited to a separate environment fund for compensation to the victims and if there is no identifiable victim, for restoration of the environment.

11. The Tribunal in the above noted case, observed as follows:

"The Tribunal is also considering violation of noise control norms at restaurants/ hotels/motels/banquets or other venues of celebrations in OA 400/2017, Westend Green Farms Society vs. Union of India & Ors. The Tribunal issued directions in the said matter on 23.07.2020 as follows:

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6. Accordingly, CPCB has filed its report dated 20.07.2020 to the effect that guidelines were finalized by the CPCB and circulated to all States/UTs on 19.03.2020. Follow up action of seeking data from all States/UTs was initiated on 23.06.2020. Data has been received from eight (08) States - Goa, Gujarat, Himachal Pradesh,

Madhya Pradesh, Meghalaya, Odisha, Punjab and Tripura out of which response of four (04) States only was in the prescribed format. The report concludes with the following remarks:

" it is recommended that, All the States/UTs may have proper Mechanism/Guidelines for control of pollution and enforcement of environmental norms in marriage halls, banquet halls, party venues etc. along with consent management system.

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As per provisions of the Noise Pollution (R & C) Rules, 2000, permission may be obtained from concerned Authorities by the units, but, SPCBs/PCCs may follow up to have the information with them also to strengthen control of noise pollution at/from the units.

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7. *In view of above, let all the States/UTs take further steps in the matter of adopting and enforcing the CPCB guidelines to ensure sustainable use of water, solid and liquid waste management and compliance with the statutory environmental norms under the Water Act, 1974, the Air Act, 1981, the Environment (Protection) Act, 1986 ('EP Act, 1986') including the Noise Pollution (R&C) Rules, 2000, providing for adequate parking facilities and having adequate stack heights for the DG Sets. Compliance of such norms must be overseen by the statutory regulatory authorities, including the Local Bodies, the State PCBs/PCCs and, wherever there is violation, stringent action must be taken by way of stopping the non-compliant activities, initiating prosecution and recovering compensation on "Polluter Pays" principle. This is necessary to enforce the right of citizens to clean environment, which is part of right to life."*

12. The Tribunal in O.A. No. 249 of 2020 directed as follows:

"Accordingly, we direct as follows:

- i. *There will be total ban against sale or use of all kinds of fire crackers in the NCR from midnight of November, 4 9 -10, 2020 to the midnight of November 30 - December 1, 2020, to be reviewed thereafter.*

- ii. Direction (i) will also apply to all cities/towns in the country where the average of ambient air quality during November (as per available data of last year) fall under 'poor' and above category.
 - iii. The cities/towns where air quality is 'moderate' or below, only green crackers be sold and the timings for use and bursting of crackers be restricted to two hours during festivals, like Diwali, Chatt, New Year/Christmas Eve etc., as may be specified by the concerned State. This direction is on pattern of direction of the Hon'ble Supreme Court in (2019) 13 SCC 523 which we are applying to areas moderately polluted or below air quality due to aggravated effect during Covid-19, as already noted. If nothing is specified by the State, timing will be 8 to 10 pm on Diwali and Gurupurb, 6 am to 8 am on Chatt and 11.55 pm to 12.30 am during Christmas and New year eve (which have yet to come and do not fall in November but if ban continues) and not otherwise.
 - iv. At other places, ban/restrictions are optional for the authorities but if there are more stringent measures under orders of the authorities, the same will prevail.
 - v. All States/UTs/PCBs/PCCs may initiate special drives to contain air pollution from all sources in view of potential of aggravation of Covid-19
 - vi. The Chief Secretaries and DGPs of all the States/UTs may issue and circulate an appropriate order in above terms with appropriate enforcement guidelines to all the District Magistrates and Superintendents of Police, PCBs/PCCs.
 - vii. The CPCB and the State PCBs/PCCs may regularly monitor the air quality during this period which may be uploaded on their respective websites. CPCB may compile information on the subject, including the status of compliance of this order from all the States/UTs and file a consolidated report with data compiled till filing of report, before the next date by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.
13. As already mentioned, the Hon'ble Supreme Court considered the matter at pre-covid stage. The health impacts of pollution were noted as follows:

14. Table I

AQI	Associated Health Impacts
Good (0-50)	Minimal impact.
Satisfactory	May cause minor breathing discomfort to sensitive

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(51-100)	people.
Moderately polluted (101-200)	May cause breathing discomfort to people with lung disease such as asthma, and discomfort to people with heart disease, children and older adults.
Poor (201-300)	May cause breathing discomfort to people on prolonged exposure, and discomfort to people with heart disease.
Very Poor (301-400)	May cause respiratory illness to the people on prolonged exposure. Effect may be more pronounced in people with lung and heart diseases.
Severe May (401-500)	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.

14. The application was finally disposed of vide order dated 01st December, 2020 with the following observations:

"Since Pandemic is still continuing and is aggravated by the addition of pollution by fire crackers, having potential of damage to public health, invoking precautionary principle under section 15 and 20 of the NGT Act, 2010, we are satisfied that there is need to continue directions for prohibition and regulation of use of fire crackers during pandemic covid-19, depending upon air quality with further direction to take coercive measures for non-compliance, including recovery of compensation and for redressal of claims of victims of such pollution and restoration of environment. For this purpose, following directions are issued:

- i. There will be total ban on sale and use of all kinds of fire crackers during pandemic covid-19 in the NCR and all cities/towns in the country where the average of ambient air quality (as per available data of last year for the relevant period) fall under the 'poor' and above category.
- ii. Direction to restrict use of fire crackers in cities/towns where air quality is 'moderate' or below to green crackers only and for duration of not more than two hours and only for celebration of any specified festival or occasion will continue. Such festivals will be specified by the States/District Magistrates. Other than specified festivals, prior permission of the District Magistrate of the area will be required for use of crackers for limited period which will be given having regard to the local conditions of impact on public health. The District Magistrate will take into account 24-hour average air

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quality with regard to PM_{2.5} and PM₁₀ on the corresponding date of the previous year. During Christmas and New Year, green crackers can be used from 11:55 pm to 12:30 am only at places where air quality is 'moderate' or below.

iii. The District Magistrate on a complaint or otherwise will assess and recover compensation from violators of the above directions on the parameters already mentioned in Para 13 above. Any victim of pollution, apart from other remedies, can approach the District Magistrate for compensation, by showing evidence of individual damage, out of the compensation fund available and if no such claim is made for six months after collection of the compensation, the amount can be spent for restoration of the environment in the District.

15. It is further reported that the matter is pending before the Hon'ble the Supreme Court and the issue involved is banning the use of certain chemicals that were dangerous & beyond safety limits in the fireworks by the manufacturers

16. A preliminary enquiry report was submitted by the Joint Director, Central Bureau of Investigation (CBI) at Chennai and it was reported that there was barium and barium salts in the making of firecrackers in express violation of the ban imposed by the Court on the use of such chemicals.

17. It is further reported by the State Pollution Control Board that CPCB has issued the guidelines and number of directions have been issued by the Hon'ble The Supreme Court and National Green Tribunal in different matters as quoted above and since the matter on the above issues is also pending before the Hon'ble the Supreme Court and listed shortly, thus there is no need to pass any separate order in the matter.

18. Accordingly, we are of the view that the directions already issued by Hon'ble the Supreme Court of India and this Tribunal and the guidelines issued by the CPCB in this matter must be strictly complied with.

The application is finally disposed of.

370 (28)
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Sheo Kumar Singh, JM

Arun Kumar Verma, EM

October, 27th 2021
O.A. No. 76/2021(CZ)
PU

**Average Ambient Air Quality Index (AQI) of District Headquarter During Diwali
(Relevant Period-Oct 2022)**

अनुराग-2

Sr.no	City	AQI *	Category
1	Satna	44.24	GOOD
2	Umariya	51.60	SATISFACTORY
3	Khandwa	55.68	SATISFACTORY
4	Dindori	55.90	SATISFACTORY
5	Sidhi	59.22	SATISFACTORY
6	Damoh	63.00	SATISFACTORY
7	Khargone	63.00	SATISFACTORY
8	Shahdol	64.10	SATISFACTORY
9	Mandla	65.50	SATISFACTORY
10	Neemuch	68.60	SATISFACTORY
11	Rewa	69.43	SATISFACTORY
12	Barwani	70.00	SATISFACTORY
13	Morena	70.50	SATISFACTORY
14	Bhind	71.50	SATISFACTORY
15	Balaghat	74.00	SATISFACTORY
16	Shivpuri	74.10	SATISFACTORY
17	Datiya	74.30	SATISFACTORY
18	Tikamgarh	74.90	SATISFACTORY
19	Sheopur	75.54	SATISFACTORY
20	Chhindwara	75.80	SATISFACTORY
21	Seoni	76.30	SATISFACTORY
22	Anuppur	77.20	SATISFACTORY
23	Rajgarh	79.20	SATISFACTORY
24	Chhatarpur	82.10	SATISFACTORY
25	Ashoknagar	82.50	SATISFACTORY
26	Alirajpur	82.90	SATISFACTORY
27	Panna	83.07	SATISFACTORY
28	Guna	83.80	SATISFACTORY
29	Jhabua	84.50	SATISFACTORY
30	Niwari	85.80	SATISFACTORY
31	Shajapur	88.73	SATISFACTORY
32	Dewas	91.24	SATISFACTORY
33	Dhar	93.10	SATISFACTORY
34	Betul	96.00	SATISFACTORY
35	Burhanpur	101.20	MODERATE
36	Indore	102.86	MODERATE
37	Sagar	107.92	MODERATE
38	Jabalpur	108.52	MODERATE
39	Katni	108.55	MODERATE
40	Agar	110.70	MODERATE
41	Ujjain	110.76	MODERATE
42	Ratlam	112.00	MODERATE
43	Harda	113.70	MODERATE
44	Sehore	113.90	MODERATE
45	Bhopal	115.81	MODERATE
46	Mandsore	117.00	MODERATE
47	Narsinghpur	117.00	MODERATE
48	Narmadapuram	119.20	MODERATE
49	Vidisha	122.40	MODERATE
50	Gwalior	141.60	MODERATE
51	Singrauli	148.00	MODERATE
52	Raisen	150.10	MODERATE

* Average Value of AQI From CAAQMS, NAMP Station, Manual Monitoring of District Headquarter & during Diwali 2022.

Average Ambient Air Quality (AQI) of District Headquarter- Nov 2022			
Sr.no	City	AQI*	Category
1	Sidhi	49.40	GOOD
2	Satna	50.16	GOOD
3	Dindori	50.82	GOOD
4	Rewa	53.03	SATISFACTORY
5	Shahdol	53.70	SATISFACTORY
6	Umariya	53.93	SATISFACTORY
7	Khargone	56.00	SATISFACTORY
8	Shivpuri	63.89	SATISFACTORY
9	Datiya	64.22	SATISFACTORY
10	Sheopur	65.20	SATISFACTORY
11	Barwani	65.60	SATISFACTORY
12	Bhind	66.00	SATISFACTORY
13	Morena	66.31	SATISFACTORY
14	Niwari	68.02	SATISFACTORY
15	Seoni	69.00	SATISFACTORY
16	Tikamgarh	70.57	SATISFACTORY
17	Khandwa	70.83	SATISFACTORY
18	Panna	72.99	SATISFACTORY
19	Mandla	73.00	SATISFACTORY
20	Ashoknagar	74.48	SATISFACTORY
21	Alirajpur	74.60	SATISFACTORY
22	Guna	75.29	SATISFACTORY
23	Anuppur	76.00	SATISFACTORY
24	Chhindwara	79.18	SATISFACTORY
25	Jhabua	81.60	SATISFACTORY
26	Agar	84.00	SATISFACTORY
27	Balaghat	84.00	SATISFACTORY
28	Shajapur	84.75	SATISFACTORY
29	Chhatarpur	86.48	SATISFACTORY
30	Mandsore	92.00	SATISFACTORY
31	Rajgarh	93.70	SATISFACTORY
32	Damoh	94.00	SATISFACTORY
33	Sehore	96.10	SATISFACTORY
34	Burhanpur	98.97	SATISFACTORY
35	Narsinghpur	100.00	SATISFACTORY
36	Narmadapuram	100.68	SATISFACTORY
37	Vidisha	104.17	MODERATE
38	Harda	107.72	MODERATE
39	Indore	119.36	MODERATE
40	Ratlam	120.00	MODERATE
41	Sagar	122.28	MODERATE
42	Ujjain	123.31	MODERATE
43	Dewas	136.00	MODERATE
44	Betul	138.00	MODERATE
45	Raisen	138.57	MODERATE
46	Jabalpur	157.00	MODERATE
47	Dhar	160.76	MODERATE
48	Katni	171.25	MODERATE
49	Bhopal	180.73	MODERATE
50	Gwalior	252.00	POOR
51	Singrauli	270.30	POOR
52	Neemuch		**
* Average Value of AQI From CAAQMS, NAMP Station, Manual Monitoring of District Headquarter.			
** CAAQMS of Neemach was Out of Order			