

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

**M.A. NO. 90 OF 2015 & M.A. NO. 132 OF 2015
IN
Original Application No.21 of 2014**

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present:

Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Shrivastava and Mr. Salik Shafique (in OA 21/2014)
Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate
Respondent No. 2 & 4:	Mr. Narender Pal Singh, Adv. along with Mr. Dinesh Jindal, LO (DPCC)
Respondent No. 5 :	Mr. Narender Hooda, Sr. Adv., Ms. Bano Deswal and Ms. Sukhmani Bajwa, Adv.
Respondent No. 7 :	Mr. D. Rajeshwar Rao, Adv. for Traffic Police
Respondent No. 8 :	Mr. Rajiv Bansal and Mr. Kush Sharma, Adv.

For DDA
Mr. Vikrant Kaushik, Adv. – Local Commissioner
Mr. Charanjeet Singh, Adv. – Local Commissioner
Mr. Praveen, Adv. – Local Commissioner
Ms. Savitri Pandey, Adv. for the State of U. P.
Mr. Ruchir Batra, Adv.
Mr. Ardhendumauli Kumar Prasad, Adv. for MoTransport & MoUrban Department
Ms. Puja Kalra and Mr. Harsha Peechara, Adv. for South and North MCD
Ms. Puja Kalra, Adv. alongwith Mr. Meena, Addl. Commissioner for SDMC
Mrs. Avnish Ahlawat with Mr. Nitish Singh, Adv. and Director U.D., Sh. Krishna. For GNCT, MoUD

Date and Remarks	Orders of the Tribunal
Item No. 08 February 17, 2015	<u>M.A. No. 132 of 2015</u> Notice. The Learned Counsel appearing for non-applicant accepts notice. We have heard the Learned Counsel appearing for parties. There is no objection to the impleadment. In fact the Tribunal has already passed orders in relation to control of air pollution in the area of Karol Bagh. In these circumstances, M.A. No. 132 of 2015 is allowed to the limited extent that the Association of Vayapar Mandal, Ajmal Khan Road, New Delhi is directed

	to be impleaded as Respondent party in the main Application No. 21 of 2014. With the above direction without prejudice and contention of the right and averments made in this application, M.A. No. 132 of 2015 stands disposed of. <u>M.A. No. 90 of 2015</u> We have heard the Learned Counsel appearing for the parties at length as well as the suggestions made by senior officers of the Authorities including Additional Commissioner and Chief Engineer of the South Delhi Municipal Corporation and other officers. The views of the market association have also been taken into consideration. Additional Commissioner, South Corporation submits that he would have to discuss the matter with the higher authorities of the Corporation as well as other department to submit before the Tribunal in respect of site and the time period that would be required for constructing the multi-level parking in Lajpat Nagar for traffic decongestion and free traffic flow so as to improve the air quality in that area. On his request, we grant time and direct the Delhi Urban Shelter Improvement Board which has already approved the temporary parking site for parking of vehicles till the multi-level parking is constructed in that area. We would be passing the detailed order only after these matters are clarified. However, in the meanwhile, we direct the South Delhi Municipal Corporation to mark the areas on the roads, that is, Veer Savarkar Marg, Firoz Gandhi Road and Shiv Mandir Marg with red line, where
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	single parking would be permitted on these roads. The red line shall be marked on the both sides road of Veer Savarkar Marg and Shiv Mandir Marg while it will be on one side on Firoj Gandhi Road towards police station. The Corporation shall block the Central verge by placing Jersey Barriers, having a width of not more than two feet, end to end, while duly protecting the trees line on these roads in the central verge. There will be no space left in between. In other words the placing of the Jersey Barriers would begin from one end of the road to the other end of the road without break and at no point, intersection would be permitted. No Rickshaw and Hawkers would be permitted on the metalled road, as the right of the Hawkers has been permitted by the Hon'ble Supreme Court in the area beyond the Metalled Road in the case of <i>Maharashtra Ekta Hawkers Union and Another vs. Municipal Corporation, Greater Mumbai and Anr., 2013</i>. In the event any vehicle is parked in the Central Verge or beyond the red line on any of these roads, the traffic police shall take a serious view of the matter and deal with the offender in accordance with law. Besides, this we make it clear that since such offenders add to the pollution of environment and degrade the air quality to the extent which is very injurious to human health, they should be liable to pay compensation in terms of Section 15 of the NGT Act, 2010. In fact, we have already determined the compensation at Rs. 1,000/- per vehicle in terms of our order dated 19th January, 2015. On behalf of the Board, the Learned Counsel
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	appearing upon instruction from the Director, who is present in the Tribunal, has submitted that they would temporarily provide parking space in their land lying beside MCD Hospital, but the parking area would be under their control and would operate the parking facilities themselves. They record this and request that the police and all other concerned authorities be directed to encourage people to park their vehicles in the open land adjoining besides the M.C.D. Hospital. We make it clear that the Corporation will not be entitled to any right on this land and it is a concession by the board which the Tribunal appreciates. All the market Associations of Lajpat Nagar will fully co-operate in implementation of these directions. In the event of default, we will be compelled to pass orders totally prohibiting parking in this area. The Learned Counsel appearing for the Associations Federation submits that they would adhere to direction and in fact would employ temporary staff to encourage proper parking and to maintain free flow of traffic in that area, so as to completely reduce the emission to the minimum possible level for improving the air quality in that area. We accept this undertaking given by the market association federation. In every parking area the parking capacity shall be identified by the Corporation and it shall be electronically displayed as to how much space is available and how much space occupied and parking shall be regulated accordingly. The corporation submits that it would like to manage the parking in that area themselves through contractors or otherwise. We leave this to the
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	discretion of the Corporation. However, in event of default and cars being parked beyond red line, the Corporation will take appropriate action against the contractors or the agencies appointed for this purpose. P.W.D. shall fully cooperate with the corporation for execution of these directions. According to the counsel appearing for the market association federation, it is submitted that a sum of Rs. 159 Crores has been paid by the residents and by the shopkeepers. This money according to them was paid only for parking development. However, according to the Learned Counsel appearing for the Corporation this amount was paid in furtherance to the Judgement of the Hon'ble Supreme Court of India in M.C. Mehta case and were for converting residential use to the commercial one and for one time parking charges and Rs. 159 Crores collected from the Lajpat Nagar, have not been exclusively spent for the development of parking in Lajpat Nagar but have been spent of all over Delhi. Let the Corporation inform the Tribunal as to how much amount of Rs. 159 Crores collected has actually been spent upon improving parking or carrying out any public related development in that area. We also permit the corporation to submit before the Tribunal, if they still want public to contribute more for construction of the multi-level parking facility etc. We direct the Joint Commissioner, Traffic, particularly, S.H.O., Lajpat Nagar and Traffic Inspector of Lajpat Nagar to ensure that these directions by the Tribunal are implemented without default and delay. We
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	make it clear in the event of default, we shall hold the senior officer of all the public bodies and the Police Authority personally responsible. List this matter on 25th February, 2015 ,CP (Swatanter Kumar) ,JM (P. Jyothimani) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)
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