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Smoking Without Safeguards: The Supreme Court’s 2025 Green Cracker Order in Delhi – NCR and the Dilution of Article 21

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Delhi’s annual air quality crisis has repeatedly prompted the Supreme Court to intervene through sweeping directions in the long-running MC Mehta v Union of India,¹ invoking Article 21² to justify stringent controls on pollution-intensive activities. In October 2025, however, the Court permitted the limited sale and use of ‘green firecrackers’ in Delhi-NCR during the Diwali period, subject to restricted time-windows, Central Pollution Control Board (CPCB) monitoring and the use of CSIR – NEERI certified products. This case commentary argues that the 2025 order marks a substantive departure from the precautionary, rights-protective trajectory of the MC Mehta and Arjun Gopal lines of jurisprudence and that it sits uneasily with the court’s own articulation of the right to clean air as an essential component of Article 21. First, the comment reconstructs the factual and procedural background of the 2025 order and maps it against earlier firecracker-related directions. It then analyses the Court’s reasoning on the evidentiary value of ‘green’ technology and its reliance on a balancing exercise between public health, religious practice and commercial interests. The comment contends that, in a city that already oscillates between ‘very poor’ and severe air-quality categories,³ even time-bound relaxations for green crackers undermine the precautionary principle, disproportionately burden

¹ MC Mehta v Union of India and Ors (2025) INSC 1233

² Constitution of India 1950, art 21

³ ‘About NAMP’ (Central Pollution Control Board) <<https://cpcb.nic.in/about-namp/>> accessed 11 March 2026

vulnerable groups and dilute the normative content of Article 21⁴. The conclusion suggests a more coherent, rights-centred framework for any future reconsideration of firecracker regulation in Delhi-NCR.

Keywords: *article 21, green cracker, delhi, air quality.*

INTRODUCTION

Each winter, Delhi's air becomes the most visible symbol of India's environmental governance crisis as particulate concentrations routinely reach levels classified as 'severe' or 'hazardous'. Against this backdrop, the Supreme Court has, for over three decades, used the vehicle of public interest litigation in *MC Mehta v Union of India*⁵ to craft an extensive body of environmental rights jurisprudence that treats clean air as integral to the right to life under Article 21.

Firecrackers have been a recurring point of contestation within this jurisprudence. Beginning with the *Arjun Gopal v Union of India*⁶ proceedings, the court responded to evidence on the health impacts of Diwali-related pollution by imposing time restrictions, banning particularly hazardous compositions and at times directing near blanket prohibitions on the sale and bursting of conventional firecrackers in the National Capital Region. These measures were initially justified as essential for safeguarding the rights of children and other vulnerable groups, even at the cost of curtailing certain religious and commercial activities.

In October 2025, however, the court appeared to recalibrate its approach. While continuing in the *MC Mehta* docket, it allowed the limited manufacture, sale and bursting of 'green' firecrackers in Delhi-NCR for a narrow Diwali window, restricted to prescribed hours and subject to certification by CSIS-NEERI⁷ and monitoring by the Central Pollution Control Board. The Court declined to impose an absolute ban, reasoning that a calibrated relaxation, combined with stricter enforcement and data collection, could strike an appropriate balance between environmental concerns and festive practices.

⁴ Constitution of India 1950, art 21

⁵ *M C Mehta and Anr v Union of India and Ors* (1987) 1 SCC 395

⁶ *Arjun Gopal and Ors v Union of India and Ors* AIR 2018 SC 5731

⁷ 'Frequently Asked Questions regarding Green Crackers' (*West Bengal Pollution Control Board*)

<https://www.wbpcb.gov.in/files/Tu-06-2023-06-08-38FAQ_Green_Firecrackers061123.pdf> accessed 11 March 2026

This case commentary argues that the 2025 green cracker order represents a concerning deviation from the court's established rights-based framework, as articulated in Article 21. By accepting marginally less polluting technology as sufficient justification for additional emissions in an already compromised airshed, the order weakens the precautionary principle, overlooks distributional harms and creates internal inconsistency within the MC Mehta line. The comment proceeds in four parts: Part A outlines the factual and procedural matrix of the 2025 order; Part B revisits the evolution of the right to a clean environment under Article 21.⁸ With particular reference to MC Mehta and Arjun Gopal, Part C critiques the reasoning adopted in the 2025 order, focusing on evidence, balancing equality concerns, and the Conclusion offers normative suggestions for a more coherent, right-protective approach to firecracker regulation in Delhi-NCR.

PART A: FACTUAL AND PROCEDURAL BACKGROUND

The MC Mehta and Arjun Gopal Context: The MC Mehta litigation began in the 1980s as a challenge to various forms of pollution affecting the Ganga⁹ and Delhi's environment,¹⁰ and over time, evolved into an umbrella for a wide range of air and water pollution issues. In relation to Delhi's air, the Court ordered the relocation of hazardous industries, mandated the conversion of public transport to cleaner fuels and issued detailed directions on vehicular emissions, all justified as necessary to protect the right to life and health under Article 21. Firecracker-related directions initially appeared in this broader context as the Court was apprised of Diwali period spikes that compounded the already serious pollution load and threatened to undo gains achieved through structural measures. Separately, in *Arjun Gopal v Union of India*,¹¹ a group of petitioners, including infants, directly challenged the manufacture, sale and use of conventional fire crackers on the ground that they violated their right to clean air and health. The court responded by suspending licenses for the sale of traditional firecrackers in Delhi-NCR for the 2017 Diwali season, imposing strict time windows for bursting, banning particularly hazardous compositions and eventually endorsing the development of 'green' crackers that purportedly emitted 30 per cent less particulate matter and avoided certain toxic metals.

⁸ *MC Mehta and Anr v Union of India and Ors* (1987) 1 SCC 395

⁹ *MC Mehta v Union of India and Ors* (1987) 4 SCC 463

¹⁰ *MC Mehta v Union of India and Ors* (1998) 6 SCC 63

¹¹ *Arjun Gopal and Ors v Union of India and Ors* AIR 2018 SC 5731

Petitions and Submissions Leading to the 2025 Order: Ahead of Diwali 2025, the court listed the firecracker issue in *MC Mehta v Union of India*¹² and received submissions from petitioners seeking a constitution or even a tightening of the effective ban on firecrackers in Delhi-NCR. Petitioners pointed to CPCB and independent data showing that Diwali-night emissions resulted in steep, immediate increases in PM_{2.5} levels,¹³ which then remained elevated for hours, aggravating respiratory ailments and undermining the right to life of Delhi residents. They argued that in a city where baseline pollution was already in the very poor category, any additional, avoidable emissions from firecrackers were impermissible under Article 21. On the other side, the Union government, state authorities and industry representatives emphasised the availability of a certification mechanism to distinguish from conventional products. They submitted that green crackers reduced particulate emissions by roughly 30 per cent, significantly reduced the use of barium and other toxic metals and produced a lower noise level, thereby mitigating environmental health impacts. These parties also highlighted livelihood concerns for workers and traders in the firecracker industry and complained that an indiscriminate regional ban on all firecrackers in 14 of Haryana's 22 districts and parts of Uttar Pradesh and Rajasthan that fell within NCR imposed disproportionate economic costs.

Operational Directions under the 2025 Order: The Supreme Court made some important decisions in October 2025. They said that people can make and sell crackers, but only if they have been checked by NEERI and have a special logo and QR code. These green crackers can only be sold in Delhi-NCR. The court also said that people can only burst these crackers between 8 pm and 10 pm on Diwali nights, which were from 18 to 21 October 2025. The court told the authorities to make sure that people follow these rules. The court also reminded everyone that some ingredients, like barium nitrate, are not allowed in firecrackers. The court said that people cannot buy firecrackers online so that people do not try to get around the rules. The court asked the CPCB to work with the state pollution control boards to check the air quality each day and to monitor how the firecrackers affect the air quality.

¹² *MC Mehta v Union of India and Ors* (2025) INSC 1233

¹³ 'Delhi experienced more intense, widespread smog in December 2025 than previous 2 months: CSE analysis' (*Down To Earth*, 31 December 2025) <<https://www.downtoearth.org.in/air/delhi-experienced-more-intense-widespread-smog-in-december-2025-than-previous-2-months-cse-analysis>> accessed 11 March 2026

Immediate Aftermath: The 2025 Diwali period showed how bad the air quality is in Delhi-NCR. Even though people were not allowed to use firecrackers and could only use green crackers for a short time, the air quality was still very bad. On Diwali nights, the amount of particles in the air went up to around 650-675 micrograms per cubic meter. This is a very alarming level. The air quality was so poor that it made people to breathing difficult. These scenarios show that even ‘green’ crackers made air quality worse, as on subsequent days when crackers were not burst, the air quality started to get a little better. The green crackers, which are supposed to be cleaner, made the air quality worse. The supposedly ‘green crackers’ added to the worsening air quality and made it harder for people to stay healthy.

PART B: ARTICLE 21, ENVIRONMENTAL JURISPRUDENCE AND FIRECRACKER PRECEDENTS

Article 21 says people have the right to live with dignity. Article 21 also includes the right to live in a healthy environment. This stresses that an environment should have clean air to breathe and drinkable water. The Supreme Court in *MC Mehta*¹⁴ line grounded this right in a combination of Article 21 and directive principles, holding that the state authorities have a positive duty to prevent environmental degradation that threatens life and health. Across multiple *MC Mehta* orders, the court adopted the precautionary principle and the polluter pays principle, ordering industrial closures, relocation and shifts to cleaner fuels in Delhi even at considerable economic cost. These decisions treated serious environmental risk as sufficient to justify strong ex ante controls, without waiting for conclusive proof of harm. Firecrackers entered this jurisprudence when Diwali-related spikes were shown to aggravate Delhi’s already poor air quality, prompting restrictions and, in some years, near blanket bans in NCR.

In *Arjun Gopal v Union of India*, the court more directly confronted firecracker pollution, recognising children’s right to clean air and health under Article 21 and suspending licenses for traditional crackers in Delhi-NCR for specific seasons. It imposed a tight time window, banned barium-based and other high-emission compositions and held that livelihood and religious freedoms could be reasonably curtailed to protect life and health. Although it noted the development of CSIR-NEERI ‘green’ crackers claiming about 30 per cent lower emissions, it

¹⁴ *M C Mehta and Anr v Union of India and Ors* (1987) 1 SCC 395

framed their possible use as a cautious experiment under continued judicial control, not as a full – fledged solution for already hazardous conditions.

PART C: CRITICS OF THE 2025 ORDER

The 2025 order rests heavily on the premise that ‘green’ firecrackers are sufficiently less polluting to justify a limited relaxation of the blanket ban in Delhi-NCR. CSIR-NEERI and government agencies claim that these products cut particulate emissions by roughly 30 per cent and reduce or eliminate certain crackers. However, when Diwali-night PM_{2.5} levels in Delhi rose from about 91 micrograms per cubic meter at 4 pm to a peak of around 675 micrograms per cubic metre by midnight in 2025,¹⁵ the marginal improvement offered by green crackers appears insufficient to make additional emissions compatible with Article 21. The Court does not appear to have demanded rigorous, outcome-based evidence showing that allowing green crackers at scale would not materially worsen ambient air quality in an already hazardous airshed. Instead, it largely accepted laboratory comparisons and institutional assurances as adequate, a stance that lowers the evidentiary bar compared to earlier environmental rulings. This marks a departure from the precautionary principle; rather than preventing avoidable risks in conditions of chronic pollution, the court authorises controlled experiments and asks regulators to monitor AQI during and after Diwali. Given well – documented patterns of sharp post-Diwali spikes, this shift from ex ante prevention to ex post observation is difficult to reconcile with the court’s own insistence that scientific uncertainty cannot justify inaction where life and health are threatened.

The reasoning of the 2025 order is also framed in terms of ‘balancing’ conflicting interests: environmental protection, festive sentiments and livelihoods in the firecracker industry. While such interests are not trivial, earlier MC Mehta and Arjun Gopal decisions clearly accorded primacy to life and health, treating bans and tight restrictions as constitutionally justified limits on religious and commercial freedoms. Redescribing the issue as a symmetrical balancing exercise risks diluting this hierarchy at a time when Delhi’s air quality has not structurally improved. Moreover, the order does not squarely address distributional impacts: short-term spikes fall most heavily on poorer residents, outdoor workers and vulnerable groups who lack private means of protection. By ignoring these equality concerns, the Court overlooks an

¹⁵ Delhi experienced more intense, widespread smog in December 2025 than previous 2 months: CSE analysis (n 13)

important dimension of Articles 14¹⁶ and 21,¹⁷ and weakens the environmental justice strand in its own jurisprudence.

Finally, the relaxation sits awkwardly with the court's earlier blanket ban and strong rhetoric on the right to breathe clean air, especially given that Diwali 2025 saw Delhi's worst particulate level in four years despite the shift to green crackers. If the court assumes an expansive regulatory role in environmental matters, coherence and predictability in its reasoning become crucial to its legitimacy. A sudden relaxation in the worst -affected region, without clear evidence of structural improvement, risks signalling that entrenched Article 21 protections are negotiable around festivals and may erode confidence in the judiciary's environmental commitments.

CONCLUSION

Delhi-NCR's Diwali – season air quality, with PM_{2.5} levels peaking around 675 micrograms per cubic metre in 2025, reflects a chronic public-health emergency rather than an emergency inconvenience. In this setting, the Supreme Court order permitting limited use of 'green' firecrackers in the region departs from the precautionary, rights-protective approach that has long been characterised by the MC Mehta and Arjun Gopal jurisprudence under Article 21. By treating a roughly 30 per cent reduction in emissions as sufficient to justify additional, avoidable pollution and by framing the issue primarily as a matter of balancing environmental concerns with festive sentiments and livelihoods, the court lowers the evidentiary bar for infringing the right to clean air and obscures the hierarchy it had previously established in favour of life and health.

A rights-centred framework would instead start from the presumption that where baseline air quality is already 'very poor' or 'severe', further discretionary emissions are incompatible with Article 21. Unless proponents can show, through independent and robust evidence, that their proposals will not materially aggravate ambient pollution or disproportionately burden vulnerable groups. In Delhi-NCR, this points towards maintaining a complete ban on firecrackers, green or otherwise, until sustained, data-backed improvements in the airshed are achieved. While encouraging non-polluting forms of celebration and prioritising structural reform in transport, industry and agricultural residue management. The 2025 green cracker

¹⁶ Constitution of India 1950, art 14

¹⁷ *Ibid* art 21

order thus becomes a critical test of whether India's environmental PIL legacy will continue to function as a robust safeguard of the right to life, or whether it will yield to incremental compromises in the face of cultural and economic pressure.