

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 21/2014

And

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A NO. 155/2015, M.A NO. 394/2015, M.A NO. 412/2015 TO M.A NO. 414/2015, M.A NO. 420/2015, M.A NO. 502/2015, M.A NO. 618/2015, M.A NO. 631/2015, M.A NO. 683/2015, M.A. NO. 778/2015, M.A. NO. 812/2015, M.A. NO. 1014/2015, M.A. NO. 1015/2015, M.A. NO. 1029/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015, M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A. NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO. 475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO. 523/2016, M.A. NO. 545/2016, M.A. NO. 564/2016 , M.A. NO. 567/2016 , M.A. NO. 578/2016 , M.A. NO. 660/2016 , M.A. NO. 661/2016 , M.A. NO. 545/2016 & M.A. NO. 567/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

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

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present: Applicant: Mr. Sanjay Upadhyay and Mr. Salik Shafique, ,
Advs.
Respondent No. 1: Ms. Panchajanya Batra Singh, Advs. For MoEF &
CC
Mr. Rajiv Bansal and Mr. Kush Sharma, Advs. For
DDA
Mr. Tarunvir Singh Khehar and Ms. Guneet
Khehar, Advs. for Transport Deptt. and GNCTD
Mr. Raman Yadav, Adv. for GDA
Mr. Om Prakash, Adv. for Ministry of Railways
Ms. Sakshi Popli, Adv. for NDMC
Mr. R. Rakesh Sharma and Mr. Maruthasamy,
Advs. for State of Tamil Nadu & TNPCB

Mr. Abhishek Yadav, Adv. for State of U.P.
Mr. Pinaki Mishra, Sr. Adv. with Mr. Mukesh Verma, Advs. For MPCB/State of Maharashtra
Mr. Taruna A. Prasad, Adv. for MoEF
Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Adv. for PWD, Delhi Police and Transport Dept.
Mr. Devraj Ashok, Adv. for State of Karnataka and KSPCB
Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Advs. For MoUD/PNG R.No.-2-6
Mr. V.K. Shukla, Adv.
Anil Grover, AAG and Mr. Rahul Khurana, Advs. for State of Haryana
Shiv Mangal Sharma, AAG with Mr. Saurabh Rajpal and Mr. Adhiraj Singh, Adv. for State of Rajasthan & RSPCB
Mr. Pragyan Pradip Sharma and Mr. Ravi Kant Paul, Advs. For State of Mizoram
Mr. P. Venkat Reddy and Mr. Prashant Tyagi, Advs. for State of Telangana
Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO, DPCC
Ms. Puja Kalra, Adv. for North and South MCD
Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. For NOIDA & Greater NOIDA
Mr. Jogy Scaria and Ms. Beena Victor, Advs. For State of Kerala and KSPCB
Ms. Asha Nayar Basu and Mr. Amit Agarwal, Advs. For West Bengal PCB
Mr. Alpna Poddar and Mr. Raj Kumar, Advs., for CPCB
Mr. Balendu Shekhar and Mr. Akshay Abrol, Advs. For EDMC
Mr. Pinky Anand, ASG with Ms. Somya Rathore, Adv. Dept of Heavy Inds. Along with Mr. Rajesh Ranjan, Adv. and Mrr. Balendu Shekhar, for MoRTH, NHAI, CONCOR
Ms. Nandini Gore and Ms. Khushboo Basi, Advs. for Tata Motors Ltd.
Mr. Sandeep Narain and Mr. Ashok Bannidinni, Advs.
Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Advs. For Andman and Nicobar Admin.
MR. Edward Belho, Mr. K. Luikang Michael and Elix Gangmei, Advs. For State of Nagaland and PCB
Mr. Darpan Wadhwa, Mr. Arjun S. And Mr. Arnav Kumar, Advs. For Applicant in MA 660 to 669/2016.
Mr. Anil Shrivastav, Mr. Pranav Rishi, Ms. Sanyam Saxena and Ms. Astha Sharma, Advs. for Arunachal Pradesh and Pollution Control Board
Mr. Pragyan Sharma and Mr. Ravi Kant, Advs. for State of Mizoram and Mizoram SPCB
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Sapam Biswajit Meitei and Mr. Z.H. Isaac Haiding, Advs. for State of Manipur

Ms. Aruna Mathur, Ms. Anuradha Arputham and Ms. Avneesh Arputham, Adv. for State of Sikkim
Mr. Suryanarayan Singh, Sr. Addl. AG for State of Himachal Pradesh
Mr. Simranjeet Singh, Adv. for NHAI
Mr. Vijay K. Sondhi and Ms. Cauveri Birbal, Mr. Aranyak Pathak and Ms. Avantika, Adv.
Mr. Ashish Negi and Ms. Richa Kapoor, Adv. for Punjab PPCB
Mr. Guntur Prabhakar, Mr. Guntur Pramod Kumar and Mr. Prashant Mathur, Adv. for State of A.P.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam
Mr. Atul Jha, Adv. for State of Chhattisgarh
Mr. Rajul Shrivastav, Adv. for MPPCB
Mr. Rudreshwar Singh and Mr. Gautam Singh, Adv. for State of Bihar and Bihar SPCB

Date and Remarks	Orders of the Tribunal
<p> Item No. 13 to 17 July 18, 2016 ss </p>	<p> <u>M.A. No. 155 of 2015</u> This application relates to relief for vintage car, on 26th November, 2014 and 28th November, 2014. Proper orders had already been passed. No need for passing further order in this Application. Consequently, the M.A. No. 155 of 2016 stands finally disposed of. <u>M.A. No. 284 of 2015</u> Nobody is present on behalf of the Applicant. The application is dismissed for default of appearance. <u>M.A. No. 394 of 2015</u> This application practically has been rendered infructuous and dismissed as such. However, whatever material has been placed on record, i.e. suggestions or steps to be taken and/or proposed to be taken will be taken at the time of final hearing. No further direction is being passed now. Consequently M.A. No. 394 of 2015 stands disposed of. </p>

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M.A. No. 412 of 2015 and M.A. No. 413 of 2015

The Applicant in either of these applications is not present. We have heard the Learned counsel appearing for the parties. The prayer in the application is for setting aside order of the Tribunal dated 07th April, 2015 by which it was directed that the diesel vehicles which are more than 10 years old should not be permitted to ply on Delhi roads. Firstly, this application is mis-conceived in as much as after the Tribunal passed order on 07th April, 2015, the same was challenged before the Hon'ble Supreme Court of India and the Statutory Appeal was dismissed by the Hon'ble Supreme Court of India. The old diesel vehicles undisputedly are the source of air pollution. It has been brought on record before us that even during the odd-even enforcement by the NCT, Delhi the ambient air quality of Delhi was not found to be much improved. In fact the parameters remained excessive. In our order dated 04th July, 2016 in Original Application No. 179 of 2016 – Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors. we had noticed the excessive parameters of the ambient air quality which reads as under:-

“Learned Counsel appearing for the Central Pollution Control Board submits that the complete and comprehensive analysis report has been placed on record. As per this report the ambient air quality in Delhi during the Odd-Even implementation period is found to be more deteriorated than the one when the said restriction was not inforce.

As per the analysis report the average value of PM_{2.5} is higher during odd-even phase than pre odd-even period. During the odd-even period it varied from 63 to 182 as against the pre odd-even when it which varied from 45 to 143. Similarly other parameters like PM₁₀, NO₂, SO₂, CO and Ozone all through the period were noticed to be higher than the pre odd-even period ambient air quality.

The Learned Counsel appearing for the NCT of Delhi prays for time to seek instructions and

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examine the impact of this report on the decision of Government of NCT of Delhi. The Counsel would also require the transport department of NCT of Delhi to give vehicular data and place the same before the Tribunal in relation to prior and during odd-even period.

The analysis report even for the first period of odd-even policy, filed on record, is also showing similar trends.”

This would show that even during enforcement of odd-even, ambient air quality had hardly improved. This itself is an indicative of the fact that to the extent of pollution being caused by vehicles, it is the old vehicles which substantially contribute majorly to the air quality and therefore they must be stopped. Besides, the fact that the order passed by the Tribunal on 07th April, 2015 has already attained finality and has become binding.

We in any case see no reason to vary our said order. In fact that order requires to be enforced more vigorously and effectively by the authorities concerned. It is an accepted fact, not only in India but all over the world, that the emission from diesel vehicle are more injurious to environment and consequently the health of the people than petrol or the vehicles being run on other sources of energy like CNG, Electricity etc. This vehicular pollution could be controlled by not permitting the vehicles causing emissions which would increase PM₁₀, PM_{2.5}, SO₂ and NO_x in the ambient air quality of that place. Furthermore, it is the NCR Delhi where the vehicular density is very high, the prohibitory directions have been passed. The same very vehicles could be driven in other places where there is larger space available for dispersion and dilution of vehicular emission from such vehicles.

Be that as it may, we are of the considered view that

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there is no occasion for the Tribunal to set aside the order date 07th April, 2015. It has been pointed out by the various Authorities including Delhi Traffic Police that they have made definite attempts to stop diesel vehicles which are more than 10 years old to ply on the road, but efforts hardly had met with any success. Few challans and fines of a smaller amount have been made under the Motor Vehicle Act which has not lead to any tangible impact.

It is also stated that impounded vehicles are released by Learned Magistrate in exercise of their jurisdiction under the Motor Vehicles Act.

Consequently, we hereby direct that the RTOs of NCR, Delhi, Haryana, Rajasthan will deregister all the diesel vehicles which are more than 10 years of age. Upon deregistering such vehicles they will supply the list of all deregistered vehicles to the Traffic Police which in turn to take appropriate steps as already directed under the order of the Tribunal and under the provision of the Motor Vehicle Act.

The Traffic Police and the RTO shall issue public notice of these orders forthwith. It is to be noticed here that other major sources of air pollution in Delhi are from dust and burning of waste for which we have already passed detailed directions separately and we required Central Pollution Control Board, Delhi Pollution Control Committee, NCT, Delhi and all other Public Authorities to file the Status report in relation to compliance of the directions already issued by the Tribunal in this case vide order dated 10th April, 2015.

M.A. No. 412 of 2015 is accordingly disposed of without any order as to cost.

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M.A. No. 413 of 2015

This application is filed on behalf of DTC praying that it should be permitted to operate 56 numbers of diesel trucks, out of these 6 trucks are less than 10 years old and 30 trucks are between 10 to 11 years old and 20 are between 12-13 years old.

In view of the above order, the trucks which are less than 10 years old can be permitted to run and utilized by the DTC but only for another period till they become 10 years old. The vehicles which are more than 10 to 13 years old or which are above 10 years old should be replaced immediately by the DTC by new trucks. It is to be noticed that diesel trucks are the serious contributory of the air pollution and as their emissions are more injurious to the human health besides they cause serious ambient air quality deterioration.

With the above directions M.A. No. 413 of 2015 stands disposed of.

M.A. No. 414 of 2015

The Learned counsel appearing for the parties pray for time to seek instruction. List this matter on 20th July, 2016.

M.A. No. 420 of 2015

The applicant is not present however the prayer made in this application is already covered by the Tribunal, where it has been held that no route is feasible as well as for diversion of traffic at this stage.

With the above observations the M.A. No. 420 of 2015 stands disposed of without any order as to cost.

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M.A. No. 502 of 2015

We have heard the Learned counsel appearing for the parties. The prayer made in this application is that fire-fighting vehicles, 112 number may be permitted on the road of Delhi which are diesel vehicle.

We make it clear that if the diesel fire-fighting vehicles are less than 10 years old they can ply on the Delhi road; if they are more than 10 years age, the Department shall take immediate steps to replace the said vehicle by new vehicles and old vehicles more than 10 years old would either be condemned and or they should be sent outside to the areas where air dispersion is much higher and vehicular density is less. The area are to be identified by the Government in terms of order of the Tribunal. Let the appropriate steps in that now be taken as per the order passed by the Tribunal.

With the above directions M.A. No. 502 of 2015 stand disposed of.

M.A. No. 618 of 2015

Nobody is present on behalf of the Applicant. The application stands dismissed for default of appearance.

M.A. No. 631 of 2015

This application is for giving list of comprehensive suggestions in relation to vehicular pollution. The same would be considered by the Tribunal when the matter would be finally disposed of.

With the above directions M.A. No. 631 of 2015 stands disposed of. No order as to cost.

M.A. No. 683 of 2015, M.A. No. 812 of 2015 and M.A. No. 1014 of 2015

In view of the order passed in M.A. No. 412 today,

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this application deserved to be dismissed and is hereby dismissed. No order as to cost.

M.A. No. 1015 of 2015

Application is allowed subject to just exception the certified copy of the annexures should be filed in due course.

With the above directions M.A. No. 1015 of 2015 stands disposed of.

MA. No. 1029 of 2015

This application is also deserved to be dismissed, in view of the order passed in M.A. No. 412 today.

The M.A. No. 1029 of 2015 stands disposed of accordingly.

M.A. Nos. 660 of 2016 to 669 of 2016

All these application are allowed subject to the conditions that all the tankers are BS-IV compliance and they are less than 10 years of age (it is stated that these are new tankers which are replacing the old tankers). Further these vehicles will only be used for transportation of fuel within the territory of Delhi.

We further direct that trucks carrying national permit if they are in excess of 10 years age will not be permitted to use in NCR, Delhi. We further direct the Applicant and all similarly placed persons to gradually phase out all the diesel vehicles which carrying fuel if they are more than 10 years old.

The M.A. Nos. 660 to 669 of 2016 stand disposed of accordingly.

<p>Item No. 13 to 17</p> <p>July 18, 2016</p> <p>ss</p>	<p><u>Main Matter</u></p> <p>The noise pollution arising from horns in the vehicle, and their undue and unlawful use by car drivers even including two wheelers, and the use of pressure horns by the trucks and other heavy vehicles is a source of serious noise pollution in Delhi. It is adversely affecting the noise level in Delhi and even the sound of vehicles is the source of noise pollution particularly DTC Buses. All the concerned authorities need to pay attention to this aspect before the noise level go to an extent where it is not possible to retrieve and bring the noise level to the permissible decibel level. It is also pointed out at the bar that the noise barriers put up on the flyover are in a damaged condition and in a number of flyovers, no sound barrier or walls have been put up at all.</p> <p>In view of the above we direct that no vehicle of any kind plying in NCR, Delhi would be permitted to use pressure horns which are not fixed by the manufacturer of vehicles. Furthermore, we direct that the DDA, NCT, Delhi, DPCC and MoEF to file a detailed affidavits placing on record their suggestions and the methodology that are required to be adopted for controlling this menace, including the directions that should be issued by the MoEF and Central Pollution Control Board for using of horns in Delhi.</p> <p>Ministry of Transport also be issued Notice. Notice returnable on next date of hearing.</p> <p>The two wheelers who are using pressure horn or have removed their silencers should not be permitted to ply on the road on NCR Delhi. The authority would also submit their report stating as to whether the silence zone</p>
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<p>Item No. 13 to 17</p> <p>July 18, 2016</p> <p>ss</p>	<p>around school, hospital etc. have been identified in NCT, Delhi or not, if not, a complete and comprehensive proposal for declaring and identifying silence zone should be placed before the Tribunal on the next date of hearing. This matter be listed for further directions on 20th July, 2016, however on other issues we would give a separate date.</p> <p>The Original Application No. 181 of 2013 also be listed on that day.</p> <p>The Ministry of Heavy Industry, Government of India has taken stand that ban on vehicles should not be for period less than 15 years. We find that this contention is de-horse any study carried out by any competent agency.</p> <p>The Learned counsel appearing for the Ministry of Heavy Industry submits that she will place on record complete status report in relation to the viability of electric and hybrid transport system in India. Further, she will also place on record the benefits that the ministry proposes to give to the people who will buy such vehicles. We also direct that in the status report affidavit it will also be stated as to how does the Ministry propose to increase manufacturing of electric and hybrid buses and car in our country to reduce both air and noise pollution. It will also be stated as to what incentive is proposed to be given. Furthermore, it would also be stated in the affidavit as to what benefit will be provided to the persons who wishes to condemn and scrap their old diesel vehicles and petrol cars. The Ministry will issue letter to every Chief Secretary of the State within one week from today stating</p>
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benefits which would be available for condemning old vehicles to the people living in various parts of the country. Response of those State Governments, if received by the Ministry should be placed before the Tribunal and letter should say that Tribunal would hear the matter on merit on next date on their behalf.

List this matter on 20th July, 2016.

The Learned Counsel appearing for the Municipal Corporation (North and South) submits that there is a typographical error in the previous order dated 11th July, 2016, at line no. 8, it should be **10,000 Sq. Ft.** instead of 10,000 Sq. Mtrs. Let the same be corrected in the order dated 11th July, 2016 and corrected copy of the order be uploaded on the website of National Green Tribunal.

Mr. Mukesh Verma, Adv. appearing for the State of Maharashtra and Maharashtra Pollution Control Board submits that he appeared along with Mr. Pinaki Misra, Sr. Adv. on 31st May, 2016, but their appearance could not be marked in the order sheet. Let their appearance be marked in the order dated 31st May, 2016 and corrected copy of the order be uploaded on the website of National Green Tribunal.

.....,CP
(Swatanter Kumar)

.....,JM
(M.S. Nambiar)

.....,JM
(Raghuvendra S. Rathore)

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