

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

ORIGINAL APPLICATION NO. 478 OF 2019

IN THE MATTER OF:

MUSTAK KADRI

.....PETITIONER

VERSUS

STATE OF GUJARAT

.....RESPONDENT

NEXT DATE OF HEARING: 28.11.2019

FACTUAL REPORT

1. This O.A. is in reference of compliance of order dated 27/7/2018 passed in O.A. No.21/2014.
2. Order dated 5/12/2018 passed in O.A. No.581/2016 and Order dated 27/7/2018 passed in O.A. No.21/2014 are annexed hereto and marked as **Annexure I & II** respectively.
3. It appears from the findings of the order dated 24/5/2019 passed in O.A. No.478/2019 that the grievance in this application is that the State of Gujarat is purchasing 4000 BS IV buses for non essential purposes in violation of order dated 27/7/2018 passed by this Hon'ble Tribunal in O.A. No.21/2014.
4. It is stated that this grievance is not true. As the State of Gujarat has not received the Original Application no.478/2019, the Respondent is unable to understand the basis of such grievance.
5. The facts in brief is as under.
 - a) In the Writ Petition (C) No.13029/1985, vide order dated 29/3/2017, Hon'ble Supreme court of India had directed that on and from 1/4/2017, vehicles which are not BS IV compliant shall not be registered. As per order of Hon'ble Supreme court, only BS IV compliant vehicles are registered in the State of Gujarat. Therefore, as per Supreme Court's order, there is no ban in purchasing BS IV buses.
 - b) It is stated that the State of Gujarat is marching ahead to use e-vehicles. Gujarat State Road Transport Corporation had uploaded the tender on 8/2/2019 for procurement of electric buses. But only one bid

was received and therefore in order to ensure competitive bidding the process of re-bidding is under consideration.

- c) BRTS, Ahmadabad has floated tender of 50 electric buses wherein 11 buses were delivered and in operation too. BRTS, Rajkot also has floated a tender of 50 electric buses.
 - d) Gujarat Energy Development Authority (GEDA) has delivered 4000 e-bikes to students. The State Government has made policy to ensure one parking place with the arrangement of charging by builders where they have developed their project.
 - e) The state Government is earnestly considering the strategy of implementation of FAME-II.
6. The State of Gujarat seeks liberty from this Hon'ble Tribunal to file detailed report as and when required.
 7. In view of above there is no merit in the grievance of the Petitioner, therefore O.A. No.478/2019 is to be dismissed.

Date: 27.11.2019

New Delhi

Through

Deepanwita Priyanka
Advocate
For State of Gujarat
Office: 305, Golf Apartments,
Maharishi Raman Marg,
Sujan Singh Park,
Near Khan Market,
New Delhi
Ph - 9437286769

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

(M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1375/2017, M.A. No. 1424/2017, M.A. No. 1425/2017, M.A. No. 1526/2017, M.A. No. 1503/2017, M.A. No. 15/2018, M.A. No. 43/2018, M.A. No. 96/2018, M.A. No. 134/2018, M.A. No. 206/2018, M.A. No. 207/2018, M.A. No. 208/2018, M.A. No. 301/2018, M.A. No. 302/2018, M.A. No. 377/2018, M.A. No. 631/2018, M.A. No. 666/2018, M.A. No. 744/2018, M.A. No. 774/2018, M.A. No. 834/2018, M.A. No. 835/2018, M.A. No. 893/2018, M.A. No. 916/2018, M.A. No. 918/2018, M.A. No. 917/2018, M.A. No. 877/2018, M.A. No. 878/2018, M.A. No. 879/2018, M.A. No. 880/2018, M.A. No. 881/2018, M.A. No. 882/2018, M.A. No. 883/2018, M.A. No. 885/2018, M.A. No. 886/2018, M.A. No. 900/2018, M.A. No. 901/2018, M.A. No. 902/2018, M.A. No. 906/2018, M.A. No. 912/2018, M.A. No. 920/2018, M.A. No. 995/2018, M.A. No. 996/2018, M.A. No. 1023/2018, M.A. No. 1024/2018, M.A. No. 1025/2018, M.A. No. 1026/2018, M.A. No. 1027/2018, M.A. No. 1028/2018, M.A. No. 1032/2018, M.A. No. 1034/2018, M.A. No. 1035/2018, M.A. No. 1036/2018, M.A. No. 1037/2018, M.A. No. 1038/2018, M.A. No. 1044/2018, M.A. No. 1045/2018, M.A. No. 1046/2018, M.A. No. 1047/2018, M.A. No. 1048/2018, M.A. No. 1052/2018, M.A. No. 1053/2018, M.A. No. 1056/2018, M.A. No. 1072/2018, M.A. No. 1079/2018, M.A. No. 1080/2018, M.A. No. 1082/2018, M.A. No. 1128/2018, M.A. No. 1129/2018, M.A. No. 1131/2018, M.A. No. 1142/2018, M.A. No. 1143/2018, M.A. No. 1144/2018, M.A. No. 1145/2018 & M.A. No. 1146/2018)

In
Original Application No. 21/2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present Applicant:

Mr. Sanjay Upadhyay, Mr. Sumitra Jaiswal, and Ms. Upama Bhattacharjee, Advs.
Mr. Amber Sachdeva, in person (M.A. No. 744/2018)
Mr. Milan Deep Singh, Mr. Arjun Sawhney, Advs.
For applicant in M.A. NO. 902 and 912/2018

Respondents:

Mrs. G. Indira, Adv. for UT of Andaman and Nicobar Administration
Mr. Edward Balho and Ms. Hoineithiam, Advs. for State of Nagaland
Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar and Mr. Sandeep Mishra, Advs. for GNCTD
Ms. Nidhi Mohan Parashar and Mr. Umang Kumar Singh, Advs.
Mr. M. Paikaray, Adv.
Mr. Jayesh Gaurav, Adv.
Mr. Gaurav Dubey, Adv.
Mr. R. Rakesh Sharma, Adv. and Mr. V. Mowli, Adv. for State of Tamil Nadu and TNPCB
Mr. Pradeep Misra, Mr. Daleep Dhayani, Advs. For UPPCB
Ms. Priyanka Sinha and Ms. Shrishti Sinha, Advs.
MS. Hemantika Wahi and Ms. Puja Singh, Advs.
Mr. Purshottam Kr. Jha, Adv.
Mr. Tayenjam Momo Singh, Adv.
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Vibhav Misra, Ms. Saumya Misra and Mr. Yashveer Singh, Advs. For DTC

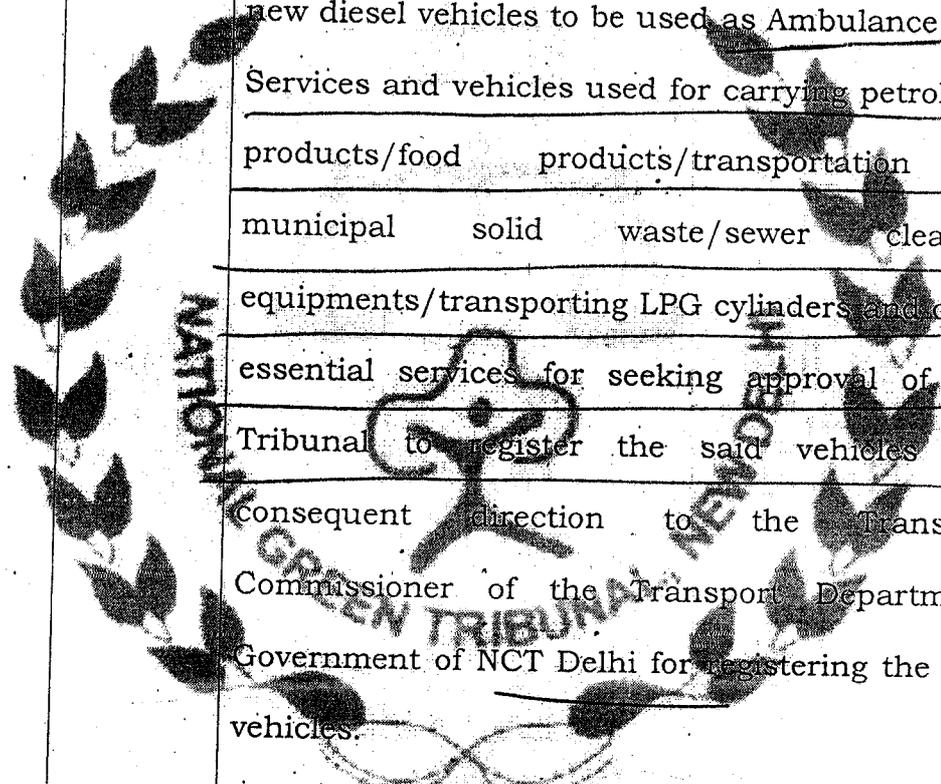
Mr. Anchit Sharma, Ms. Satmita Ghosh and dMr. Dipankar Wadhwa, ADvs. For DCB
 Mr. Sandeep Singh and Mr. Vinay Pal, Adv. For State of UP
 Mr. Puja Kalra and Mr. Virendra Singh, Adv. for NDMC and SDMC
 Mr. Sumit Kishore, Adv. For PNGRB
 Ms. Sakshi Popli, Adv. for NDMC
 Mr. Rajkumar, Adv. CPCB
 Mr. Girdhari Singh and Mr. Robin Bhati, Adv.
 Mr. Rakesh Dewan, Adv.
 Mr. Naginder Benipal, Adv.
 Mr. K. Entaloi Sema and Ms. Nandini Singla, Adv.
 Ms. Yogmaya Agnihotri and Ms. Prity, Adv. for CECEB
 Mr. V.K. Shukla, Ms. Vijay Laxmi, Adv. for State of M.P.
 Mr. Purshuttam Kr. Jha, Adv.
 Mr. Atul Jha, Adv. for state of Chhattisgarh
 Mr. Shuvodeep Roy and Mr. Rituraj Biswas, Adv. For State of Tripura
 Mr. Shuvodeep Roy, Mr. Vinayak Gupta, Adv.
 Mr. Girdhari Singh, Mr. Robin Bhati, Adv.
 Mr. Nishe Rajen Shonker, Adv. for State of Kerala
 Mr. J. Rajesh for Mr. Ankur Chhibber, Adv.
 Mr. Leishangthem Roshani Kh. Adv. for State of Manipur
 Mr. Sandeep Narain and Mr. Anjali Agarwal, Adv. for SIAH
 Mr. Anuj Sarma and Ms. Nandika, Adv. for State of Goa and Goa State PCB
 Mr. Mukul Singh, Adv. for MOEF & CC
 Mr. Manish Kumar, Adv. for State of MP
 Ms. Anu K. Joy and Ms. Nish Ranjan Shonker, Adv.
 Mr. Alim Anwar, Adv.
 Mr. Anil Grover, AAG Haryana with Mr. Saurabh Sachdeva and Mr. Mishal Vix, Adv.
 Mr. Rajneesh Bhardwaj, Mr. Raj Kishan Gaur and Mr. Rahul Sharma, Adv.
 Mr. Nagender Pal Singh, Ms. Aditi Singh, Adv. And Mr. Dinesh Jindal, LO, DPC
 Mr. Raja Chatterjee, Mr. Piyush Sachdev, Mr. Abhinandini, Ms. Asha Basu and Ms. Aradhita Ghosh Mondal, Adv. for state of West Bengal
 Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mondal, Adv.
 Mr. Devral Ashok, Adv.
 Mrs. Anuradha, Mr. Avnessh, Ms. Anuradha and Ms. Simran Jeet, Adv. for State of Sikkim
 Mr. Guntur Prabhakar, Mr. Guntur Pramod Kumar, Mr. Prashant Mathur, Adv. for State of A.P
 Mrs. Aruna Mathur, Mr. Avnessh Arputham, Ms. Simran Jeet and Ms. Anuradha Arputham, Adv. For state of Sikkim
 Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Adv. For EDMC
 Mr. Anil Shrivastav, Mr. Rituraj Biswas and dMs. Sujaya Bardhan, Adv. For State of Arunachal Pradesh
 Mr. R. P. Pahwa, adv.
 Mr. Raman. Yadav, adv and Ms. Varnita Rastogi, Adv
 For G.D.A
 Mr. Mukesh Verma; Adv.
 Mr. Kamaljeet Singh, AAG
 Mr. Rajiv Bansal, Sr. Adv., Mr. Kush Sharma, Mr. Prateck Gautam and Ms. Fiza Saluja, Adv.
 Mr. Jogy Scaria and Ms. Beena Victor, Adv.
 Mr. Gaurav Dubey, Adv.
 Mr. Gaurav Agarwal, Adv. for GDA
 Mr. Rajneesh Bhardwaj, Mr. Raj Kishan Gaur and Mr. Rahul Sharma, Adv. For Applicants in MAS.



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Mr. Ravi Sikri Sr. Adv., Mr. Deepak, Mr. Shraym Das and Mr. Arjun Syel, Applicants in MAs.
Ms. Bhoomika Nanda, Adv. for Applicant in MA
Mr. S.P. Singh Mahlaj, Adv. for Applicant in MA
Mr. Tarang Gupta, Adv. for Applicant in MA
Ms. Sonia Dubey, Ms. Kanchan Yadav and Ms. Surbhi Anand, Advs.
Mr. P. Venkat Reddy and Mr Prashant Tyagi, Advs.
Ms. Kritika Shukla, Adv. for NHAI
Mr. Ravindra Kumar, Adv. for Gr. Noida Authority
Mr. J. Rajesh, Adv.
Mr. Shoeb Alam, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 9 July 27, 2018	<p>1. This order will dispose of the applications filed by purchasers/owners of BS-IV compliant new diesel vehicles to be used as Ambulance/Fire Services and vehicles used for carrying petroleum products/food products/transportation of municipal solid waste/sewer cleaning equipments/transporting LPG cylinders and other essential services for seeking approval of this Tribunal to register the said vehicles and consequent direction to the Transport Commissioner of the Transport Department, Government of NCT Delhi for registering the said vehicles.</p> <p>2. This Tribunal directed that new diesel vehicles will not be registered in NCT Delhi <i>vide</i> order dated 11.12.2015 in O.A. No. 21/2014. This order was passed having regard to the deteriorating air quality in Delhi and the established fact that diesel vehicles greatly</p>

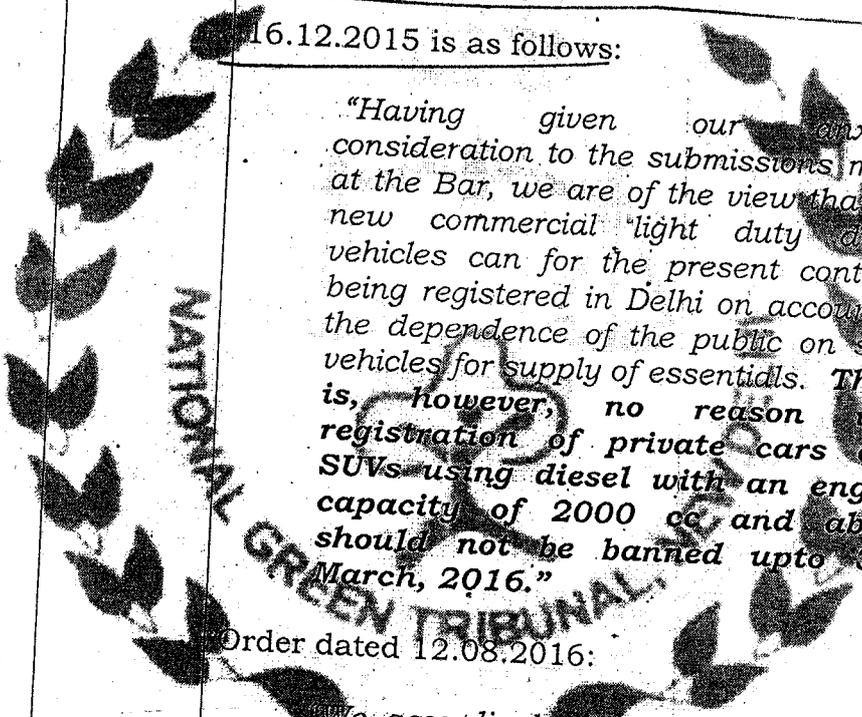


<p>Item No. 9</p> <p>July 27, 2018</p> <p>..</p>	<p>contribute to the pollution of air. It is well acknowledged that heavy commercial diesel vehicles greatly contribute to pollution of air¹.</p> <p>The order dated 11.12.2015 is as follows:</p> <p>“As an interim measure till next date of posting subject to hearing of all the concerned parties, we direct that Diesel Vehicles of more than 10 years of age as already directed as well as new diesel vehicle would not be registered in NCT, Delhi”.</p> <p>The order dated 10.11.2016 is as follows:</p> <p><i>“All the judgments and orders passed by the Tribunal dated 26th November, 2014, 04th December, 2014, 07th April, 2015, 10th April, 2015, 18th May, 2015, 28th April, 2015 and 10th December, 2015 in case of Vardhaman Kaushik Vs. Union of India & Ors. in Original Application No. 21/2014 and 10th December, 2015 in the case of Vikrant Kumar Tongad Vs. Environment Pollution (Prevention & Control) Authority & Ors. shall be applicable, mutatis mutandis, to the orders passed in the case of respective States and NCT, Delhi.”</i></p> <p>3. The above order was made absolute on 10.11.2016 in respect of some other States also.</p> <p>4. However, it has been brought to our notice that out of category of diesel vehicles, private cars and SUVs with the engine capacity of 2000 cc and above which were earlier prohibited by the Hon'ble Supreme Court <i>vide</i> order dated</p>
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¹ M.C. Mehta Vs. Union of India (UOI) and Ors., 1999(6) SCC 9; [2002 (4) SCC 356] and [2016 (4) SCC 269]

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Item No. 9	16.12.2015 in Writ Petition (Civil) No.
July 27, 2018	13029/1985 in the case of M.C. Mehta Vs.
"	U.O.I. and Ors., were permitted subsequently
	vide order dated 12.08.2016 subject to certain
	conditions i.e. upon deposit of 1% of ex-show
	room price of every diesel car that is sold by any
	manufacturer/dealer in Delhi & NCR region
	towards environment protection charge. The
	order of the Hon'ble Supreme Court dated
	16.12.2015 is as follows:
	<p><i>"Having given our anxious consideration to the submissions made at the Bar, we are of the view that the new commercial light duty diesel vehicles can for the present continue being registered in Delhi on account of the dependence of the public on such vehicles for supply of essentials. There is, however, no reason why registration of private cars and SUVs using diesel with an engine capacity of 2000 cc and above should not be banned upto 31st March, 2016."</i></p>
	Order dated 12.08.2016:
	<p><i>We accordingly direct that the CPCB shall open a separate account in a Scheduled public sector bank to receive the amount representing 1% of the Ex-show room price of every diesel car that is sold by any manufacturer/dealer in Delhi and NCR region. The deposit of the amount alone shall entitle the manufacturer/dealer or the purchaser of the car to have the car registered within Delhi or NCR region. Our order dated 16.12.2015 shall to that extent stand modified. We, however, leave open the question whether cars less than the capacity of 2000 cc using diesel fuel should also be</i></p>



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subjected to a similar charge. So also the question whether the rate of the charge ought to be limited 1% or raised is left open to be determined at an appropriate stage. We all the same make it clear that any such enhancement in the charge if so directed by the court would not have any retrospective effect."

5. The Hon'ble Supreme Court, thereafter, on 13.04.2017 prohibited the registration of vehicles other than BS-IV compliant sold before 31.03.2017. Those sold after 01.04.2017 could be registered. However, there is no specific direction that heavy duty commercial diesel vehicles which are BS-IV compliant could be registered. The order is as follows:

"Accordingly, for detailed reasons that will follow we direct that:

(a) On and from 1st April, 2017 such vehicles that are not BS-IV compliant shall not be sold in India by any manufacturer or dealer, that is to say that such vehicles whether two wheeler, three wheeler, four wheeler or commercial vehicles will not be sold in India by the manufacturer or dealer on and from 1st April, 2017.

(b) All the vehicles registering authorities under the Motor Vehicles Act, 1988 are prohibited for registering such vehicles on and from 1st April, 2017 that do not meet BS-IV standards, except on proof that such a vehicle has already been sold on or before 31st March, 2017."

6. The effect is that the heavy duty diesel vehicles even if they are BS- IV compliant are not

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being allowed to be registered which has led to filing of the present applications.

7. On 30.01.2018, the Tribunal considered the applications of BS-IV compliant new diesel heavy vehicles owners engaged for purpose of essential services and permitted their registration subject to certain conditions. The said order is as follows:

"We, therefore, allow these applications directing the Transport Commissioner, Transport Department, Government of NCT Delhi to register the BS-IV compliant vehicles referred to in the said applications on the following conditions:-

1. That the new vehicles that are sought to be registered now should be BS-IV compliant.

2. The Applicant shall file an Affidavit before the Tribunal as well as before RTO that they do not possess or engage any diesel vehicle/truck/tanker which is more than 10 years old for the purpose of transportation.

3. It is also directed to furnish details of the other vehicles owned by this Applicant in the form of Affidavit.

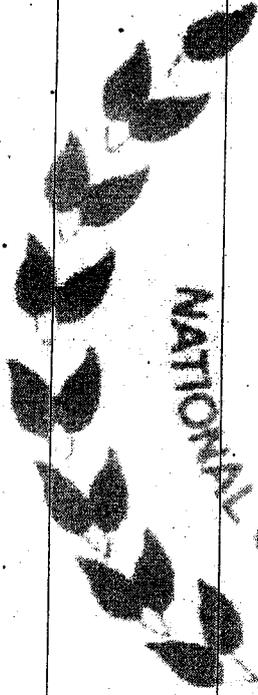
4. The said vehicle should be duly maintained and used only for exclusive purpose of carrying petroleum products and providing essential services or as indicated herein and no other use.

5. It should not increase the width or height of the vehicles and it should be strictly within the specified limit.

6. All these vehicles will be fitted with GPS.

7. The log-book shall also be maintained."

8. On the above pattern, certain other orders are also said to have been passed. Thus, the



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parties understand that unless expressly permitted and subject to further conditions mentioned above, other BS-IV compliant diesel vehicles cannot be registered.

9. On the above basis, we are of the view that applications filed by the owners of BS-IV compliant new diesel vehicles engaged in Ambulance/Fire Services and vehicles engaged for carrying petroleum products/food products/transportation of municipal solid waste/sewer cleaning equipments/ transporting LPG cylinders and such other essential services etc. will stand allowed on the same conditions as are mentioned in the Tribunal order dated 30.01.2018 reproduced above.

10. We now come to the applications of owners of diesel vehicles in districts Moradabad, Meerut, Bulandshahar and Muzaffarnagar seeking parity with orders of the Tribunal dated 13.10.2017 passed in OA No. 21/2014 in the case of *Vardhaman Kaushik Vs. Union of India & Ors.* and connected matters, wherein, the Tribunal permitted the use of the vehicles for 3 years after 10 years on the ground that the time was required for setting up of CNG fuel stations.

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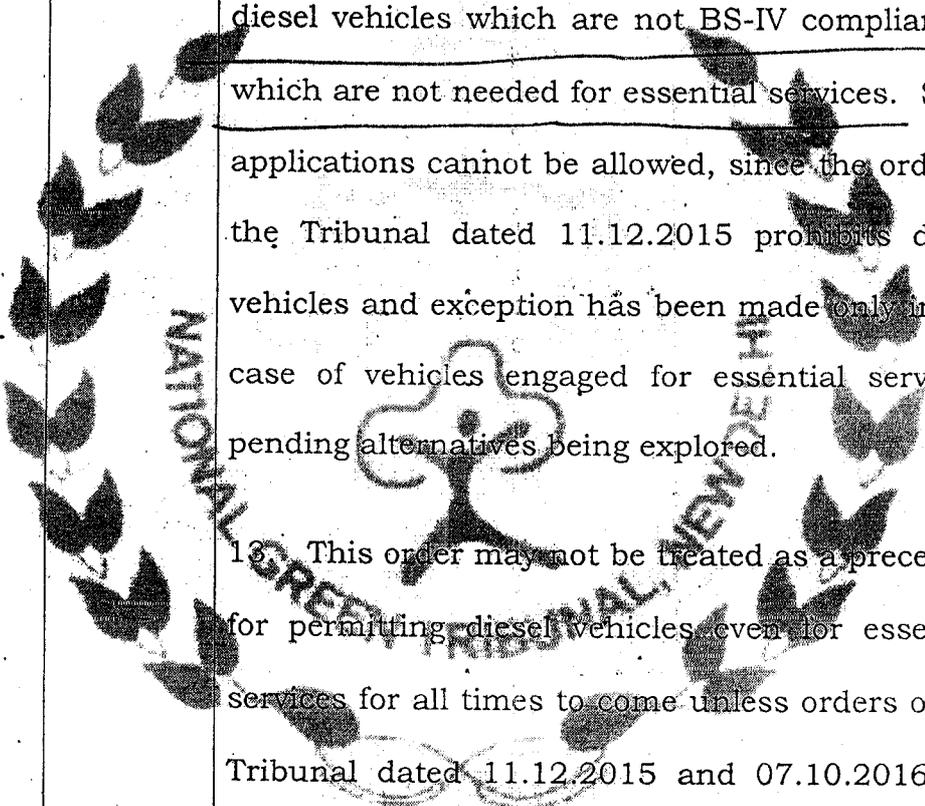
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11. Accordingly, we pass same order and direct that the said vehicles will be permitted for the unexpired period of 3 years in the said area and on the same conditions that they will not enter NCT Delhi.

12. The other applications have been filed seeking permission to continue the use of 10 years old diesel vehicles or registration of new diesel vehicles which are not BS-IV compliant or which are not needed for essential services. Such applications cannot be allowed, since the order of the Tribunal dated 11.12.2015 prohibits diesel vehicles and exception has been made only in the case of vehicles engaged for essential services, pending alternatives being explored.

13. This order may not be treated as a precedent for permitting diesel vehicles even for essential services for all times to come unless orders of the Tribunal dated 11.12.2015 and 07.10.2016 are vacated. It has not been brought to our notice that in any order of this Tribunal or the Hon'ble Supreme Court diesel vehicles other than diesel cars/SUVs of 2000 cc capacity and above, even if BSIV compliant, can be unconditionally registered in the NCT. Though Tribunal has made exception



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in respect of vehicles meant for essential services on ad hoc basis, such exception has not been made across the board.

14. The matter having been disposed of, it is made clear that such applications in a decided matter cannot be allowed to be entertained for all times. Remedy of the aggrieved parties may be to challenge the order of the Tribunal dated 11.12.2015 and 10.11.2016 instead of filing application in this Tribunal.

15. Accordingly, all these applications stand disposed of. If any of the applications is not on the issue of diesel vehicles, liberty to mention for a separate hearing.

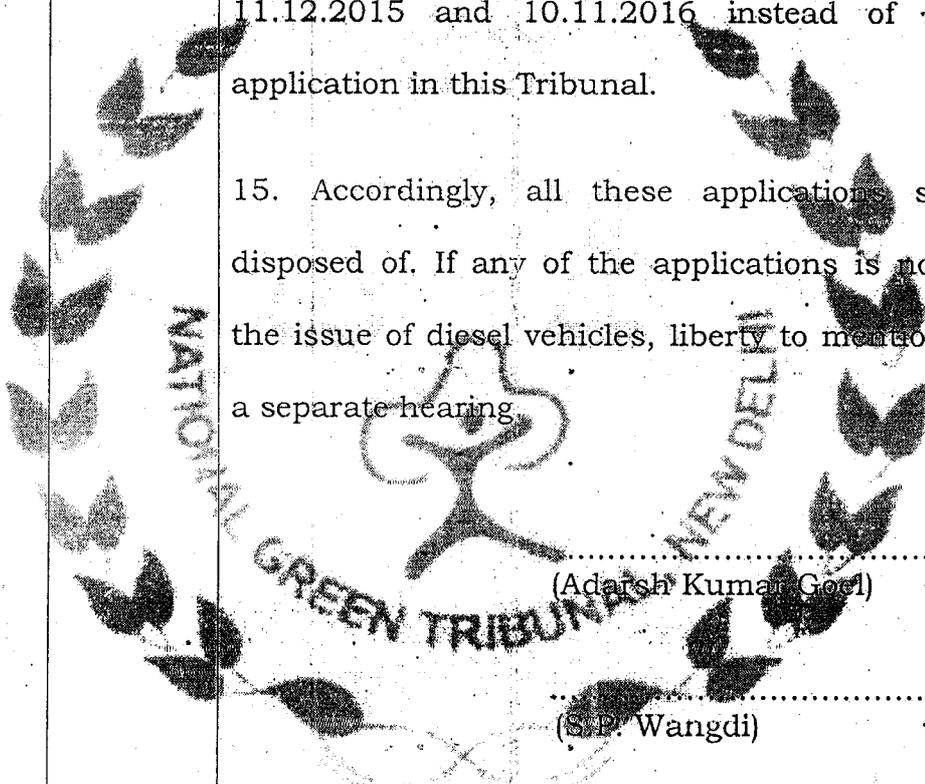
....., CP
(Adarsh Kumar Goyal)

....., JM
(S.P. Wangdi)

....., EM
(Dr. Satyawan Singh Garbyal)

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

27.07.2018



Item No.12

Court No. 2

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 581 of 2016

Mustak M. Kadri

Applicant(s)

Versus

State of Gujarat & Ors.

Respondent(s)

Date of hearing: 05.12.2018

CORAM
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER

For Applicant(s)

Mr. A. Venkatesh and Mr.
Rahul, Advocates

For Respondent(s)

Mr. Pinaki Mishra, Sr.
Advocate and Ms. Aastha
Mehta, Advocate for R-5
Mr. Maulik Nanavati, Advocate
for R-1
Mr. Dhruv Pal Advocate for
CPCB

ORDER

Heard the Learned Counsels for the parties.

The primary grievance raised in this application and the relief sought by the applicant is in respect of restraining the plying of vehicles which are not BS IV compliant.

It would suffice to say that identical questions was raised before the larger Bench of this Tribunal in O.A. No.

21 of 2014 and decided on 27.07.2018, in respect of NCR
area. 127/c

In view of the fact that the question raised in the
instant application is similar to one decided by this
Tribunal in Vardhaman Kaushik (supra) we hold that the
principle laid down therein shall also apply to the present
case.

Accordingly, the original application (581 of 2016)
stands disposed of, with no order as to cost.

Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Chahal, EM

December 05, 2018

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R-643/18

REPORTABLE

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 13029 OF 1985

M. C. MEHTA

...PETITIONER(S)

Versus

UNION OF INDIA & ORS.

...RESPONDENT(S)

(IN RE : RECOMMENDATION NOS. 2.2.1 AND 2.2.2 OF REPORT
NOS. 71 AND 78 SUBMITTED BY EPCA)

J U D G M E N T

Certified to be true copy
29/10/18
Assistant Registrar (Jud.)
Supreme Court of India

Deepak Gupta, J.

1. The seminal issue to be decided is whether Bharat Stage IV (for short BS-IV) compliant vehicles should be permitted to be sold in India after 31.03.2020.

2. In an earlier judgment dated 13.04.2017, we have given detailed reasons for the order dated 29.03.2017 whereby this Court had directed that on and from 01.04.2017, vehicles which are not BS-IV compliant, shall not be sold by any manufacturer

or dealer or motor vehicle company whether such vehicle is a two wheeler, three wheeler, four wheeler or commercial vehicle etc.. We had also by the said order prohibited registration of non- BS-IV vehicles from 01.04.2017 except if such vehicles were sold on or before 31.03.2017. Since in the judgment dated 13.04.2017, we have set out in detail the history leading to implementation of the Bharat Stage compliant fuels, it is not necessary to repeat the same here. However, a short recap of the same would be apposite to understand the issues in hand.

3. In 2003, the Government of India announced the National Auto Policy based on the recommendations of the Mashelkar Committee constituted in 2001. BS-IV compliant vehicles were made compulsory for four wheelers in different parts of the country on different dates starting from 01.04.2005, from which date registration of only BS-IV compliant vehicles were permitted in the metropolises of Delhi, Ahmedabad, Bengaluru, Mumbai, Pune and Kolkata. Thereafter, it was made compulsory to have BS-IV compliant vehicles in some other cities from 01.04.2010. More cities were added on 21.05.2010 and on 14.07.2015. Finally, by amendment dated 19.08.2015 it was mandated that

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BS-IV norms would come into force throughout the country w.e.f. 01.04.2017.

4. As far as two and three wheelers are concerned, they were made subject to BS-III norms on and with effect from 01.04.2010 by insertion of sub-rule 16 in Rule 115 of the Central Motor Vehicle Rules, 1989 hereinafter referred to as 'the Rules'. With effect from 04.07.2014, it was mandated that on and from 01.04.2016 all two wheeler vehicles will comply with BS-IV emission norms and all existing models will shift to BS-IV emission norms from 01.04.2017. Similarly, Rule 17 was inserted in Rule 115 of the Rules on 12.06.2015 in respect of three wheelers wherein BS-IV standard would be applicable to new models on or after 01.04.2016. Resultantly, only those vehicles which were BS-IV compliant would be sold after 01.04.2017.

5. An issue was raised by the manufacturers of motor vehicles that they should be given reasonable and sufficient time for sale of stocks of those vehicles which are not BS-IV compliant vehicles but manufactured up to 31.03.2017. This Court did not accept

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"In the Central Motor Vehicle Rules, 1989, in rule 115, after sub-rule (20), the following sub-rule shall be inserted namely:-

"(21) New motor vehicles conforming to Emission Standard Bharat Stage-IV, manufactured before the 1st April, 2020 shall not be registered after the 30th June, 2020:

Provided that the new motor vehicles of categories M and N conforming to Emission Standard Bharat Stage-IV, manufactured before the 1st April, 2020 and sold in the form of drive away chassis, shall not be registered after the 30th September, 2020."

7. It is submitted that the Government of India while balancing the need for a cleaner environment with the practical difficulties faced by the manufacturers has given a three months' window to the automobile manufacturers to dispose of the vehicles conforming to BS-IV norms. In respect of certain categories of commercial vehicles in which only a chassis is sold and a body has to be built thereupon, the period of registration has been extended up to 30.09.2020.

8. It has been contended on behalf of SIAM that in Europe the normal practice is that about one year's time is given to the manufacturers of vehicles when a higher quality of fuel is introduced and the fuel is introduced much earlier and thereafter an outer limit is fixed for sale of compliant vehicles. According to

SIAM, BS-VI fuel will be available in the entire country only with effect from 01.04.2020 and manufacturers are, therefore, forced to stop production after 31.03.2020. Therefore, it is not feasible for the manufacturers to switch over to BS-VI compliant vehicles overnight. They have to be given some reasonable time for sale of the accumulated stocks of non-BS-VI (i.e. BS-IV) compliant vehicles. It is further submitted that six to nine months' time is required to shift the assembly line to make BS-VI compliant vehicles and if the request of the manufacturers is not accepted, they will have to start manufacturing BS-VI compliant vehicles well before 31.03.2020 and at least three to six months' prior to the said date. It has also been contended that earlier BS-VI fuel was to be introduced with effect from 01.04.2024, which was pre-poned to 01.04.2023 and it was then pre-poned to 01.04.2021 and finally the date was advanced to 01.04.2020. It was decided to leapfrog from BS-IV fuel to BS-VI fuel without shifting to BS-V fuel. According to SIAM, this is creating a lot of difficulties for the manufacturers.

9. Mr. Gopal Subramaniam, learned senior counsel appearing for one of the manufacturers, submits that his clients are already

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manufacturing vehicles which are both BS-IV and BS-VI fuel compliant and they are on the road already. Mr. A.N.S. Nadkarni, learned Additional Solicitor General submits that keeping in view the difficulties faced by the manufacturers and balancing the need to have a cleaner environment, three months' period given to the manufacturers is reasonable. He also urges that the Rules have not been challenged by any party and, therefore, this Court should not go into the validity of the Rules.

10. On the other hand, Ms. Aparajita Singh, learned amicus curiae, has made a passionate plea that no non-BS-VI compliant vehicle should be permitted to be sold in the entire country after 01.04.2020. She has drawn our attention to the Report of the Parliamentary Standing Committee (for short 'the Committee') dated 07.08.2018. This Report mainly deals with National Capital Region (NCR) of Delhi but there are some references to the entire country. Some of the observations made by the Committee need to be considered and taken note of. The Committee in Para 5.15 notes that the problem of air pollution is affecting all human beings and any leniency on the part of the Government in tackling it will have a cascading effect on the

health of the citizens. These observations have been made with specific reference to vehicular pollution and the need to ensure compliance of BS-VI norms with effect from 01.04.2020. There can be no two views that air pollution is hazardous to health. We may, also take note of certain observations of the Report of the Committee which show that one out of three children in Delhi suffers from respiratory problems. This is almost twice as high as compared to the city of Kolkata or rural areas. We may note that the World Health Organisation's (WHO) database of more than 4,300 cities showed Indian cities of Gwalior, Allahabad, Raipur, Delhi, Ludhiana, Khanna, Varanasi and Patna as being among the most polluted in the world¹. Our attention has been drawn to various other documents which clearly show the deleterious effects of pollution on health. The hazards of pollution and its ill effect on the health of the citizens especially children are not limited to the city of Delhi or the NCR of Delhi but affect all the citizens of the country.

11. The Union Government has spent about Rs.30,000 crores to manufacture BS-IV compliant fuel. We have been informed that

¹ "World's Most Polluted Cities", World Economic Forum, 03.05.2018

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another Rs. 30,000/- crores of the taxpayers' money have been expended by the Union to ensure that the fuel available in the country is BS-VI compliant. It is heartening to note that the Union, being concerned with the health of the citizens and also taking note of the urgent need for a clean environment, has taken steps to manufacture cleaner fuel. This fuel has already been made available in the National Capital Territory (NCT) of Delhi from 01.04.2018 and we have been informed that barring a few places, it shall be available in the entire NCR from 01.04.2019. It will probably be available in many parts of the country prior to 01.04.2020 and the entire country will shift to BS-VI fuel from 01.04.2020. Obviously, the manufacture of clean fuel is being done in a phased manner because all the refineries cannot simultaneously start manufacturing clean fuel. It is not as if on 01.04.2020 just by waving a magic wand the entire country will change to BS-VI compliant norms. If all the refineries and manufacturers by taking note of the requirement to bring in BS-VI fuel, have introduced such fuel from 2018 and are introducing it in a phased manner in the entire country by 31.03.2020, we see no reason why manufacturers of automobiles, two wheelers, three wheelers etc. cannot also do so.

12. We may note that whereas in this Court SIAM has been canvassing that the shift to BS-VI compliant vehicles is a long drawn out process requiring huge changes in technology, the very same manufacturers are selling and exporting BS-VI compliant vehicles to Europe and other countries. With regard to two wheelers it has been specifically urged that the technological changes are immense. To counter this argument the learned amicus curiae has drawn our attention to a Press Release issued by M/s. Hero MotoCorp., which is one of the largest motor manufacturers of two wheelers in the country. In this Press Release issued in July 2017 it has been stated that M/s. Hero MotoCorp. has begun developing BS-VI compliant models and it aims to introduce such products much before the timeline of 2020. The company has also stated that it will manufacture only BS-VI fuel compliant vehicles well before the date stipulated by the authorities. If one manufacturer can do this, we see no reason why other manufacturers of two wheelers cannot do so.

13. With regard to trucks and buses, from a news item published in the Financial Express dated 06.07.2018, it is

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apparent that Eicher is already manufacturing trucks and buses which are not only BS-VI compliant but BS-VI CNG compliant. Another manufacturer of heavy vehicles i.e. Ashok Leyland had, in August, 2018 through its subsidiary Optare obtained an order to manufacture the world's first electric double decker buses. The technology needed to manufacture such electric buses is much more advanced and difficult as compared to the technological changes required to manufacture petrol and diesel vehicles which are BS-VI compliant. Similarly, TVS Motors on 07.08.2018 has issued a press note that it will be manufacturing BS-VI compliant vehicles much ahead of the deadline of 2020. Many members of SIAM in the Auto Expo held in February, 2018 have exhibited vehicles which are technologically much more advanced than BS-VI compliant vehicles. These manufacturers have not only asserted that they can manufacture electric vehicles but also asserted that they are developing hydrogen cell fuel vehicles along with hybrid, electric and CNG vehicles.

14. We have mentioned these facts only to highlight that some of the manufacturers are not willing to comply with the 31.03.2020 deadline not because they do not have the technology

but because the use of technology will lead to increase in the cost of the vehicles which may lead to reduction in sales of the vehicles and ultimately their profit. There can be no compromise with the health of the citizens and if one has to choose between health and wealth, keeping in view the expanded scope of Article 21 of the Constitution, health of the teeming millions of this country will have to take precedence over the greed of a few automobile manufacturers. The automobile manufacturers must behave responsibly. We expected that keeping in view our earlier order, they would have themselves volunteered to be BS-VI compliant by 31.03.2020. Unfortunately, this has not been the case with some of the manufacturers and they want to stretch on the timeline by a few days or months for no other reason but to make a little more money.

15. When we compare BS-VI fuel with BS-IV fuel, there is a massive improvement in environmental terms. Once BS-VI emission norms are enforced, there will be a 68% improvement in $PM_{2.5}$. This is not a small change. It is a vast improvement and the faster it is brought, the better it is. The amicus curiae has strenuously urged that, at least, in the NCR of Delhi, the BS-VI

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norms be applied for sale of vehicles from 01.04.2020. We feel that it may not be practical to introduce BS-VI compliant vehicles region-wise or city-wise. In our view, the BS-IV experiment in this regard was not very successful. BS-VI compliant vehicles are going to be more expensive than BS-IV compliant vehicles. People have a tendency to buy cheaper vehicle(s) even from a neighbouring city. We also strongly feel that the problem of pollution is not limited to the NCR of Delhi but it is a problem which has engulfed the entire country especially the major cities. India has the dubious distinction of having 15 out of the 20 most polluted cities in the world. The pollution in Gwalior, Raipur & Allahabad is worse than Delhi. The situation is alarming and critical. It brooks no delay.

16. It is an established principle of law that the right to life, as envisaged under Article 21 of the Constitution of India includes the right to a decent environment². It includes within its ambit the right of a citizen to live in a clean environment³. With regard to vehicular traffic, this Court has issued a number of directions

² Shantistar Builders v. Narayan Khimalal Totame AIR 1990 SC 630;(1990) 1 SCC 520.

³ Bhavani River - Sakthi Sugars Ltd., In re, (1998) 2 SCC 601

to ensure a clean environment and reduce pollution⁴. It has been held that the right to clean environment is a fundamental right⁵. The right to live in an environment free from smoke and pollution follows from the "quality" of life which is an inherent part of Article 21 of the Constitution. The right to live with human dignity becomes illusory in the absence of a healthy environment⁶. The right to life not only means leading a life with dignity but includes within its ambit the right to lead a healthy, robust life in a clean atmosphere free from pollution. Obviously, such rights are not absolute and have to co-exist with sustainable development. Therefore, if there is a conflict between health and wealth, obviously, health will have to be given precedence. When we are concerned with the health of not one citizen but the entire citizenry including the future citizens of the country, the larger public interest has to outweigh the much smaller pecuniary interest of the industry, in this case the

⁴ M.C. Mehta v. Union of India, (1998) 6 SCC 60, M.C. Mehta v. Union of India, (1998) 6 SCC 63, M.C. Mehta v. Union of India (Matter regarding emission standard for vehicles), (1999) 6 SCC 12, M.C. Mehta v. Union of India, (2002) 10 SCC 191, M.C. Mehta v. Union of India, 2017 SCC Online SC 394

⁵ N.D. Jayal v. Union of India, (2004) 9 SCC 362.

⁶ Shantistar Builders vs Narayan Khimalal Gotane & Ors. Etc, AIR 1990 SC 630, M.C. Mehta v. Union of India, (2004) 12 SCC 118, State of M.P. v. Kedia Leather & Liquor Ltd., (2003) 7 SCC 389.

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automobile industry, especially when the entire wherewithal to introduce the cleaner technology exists.

17. It is therefore necessary to ensure that BS-VI compliance is uniform throughout the country so that even those areas of the country which fortunately have not suffered the ills of extreme pollution are safe in the future. The sale of automobiles and other vehicles is rising exponentially and the number of vehicles on the road is increasing day by day. Therefore, even a day's delay in enforcing BS-VI norms is going to harm the health of the people. We are dealing here with a situation where children and unborn children suffer from pollution and issues of inter-generational equity are involved. Do we as a society or as manufacturers of automobiles have a right to manufacture more polluting vehicles when we have the technology to manufacture less polluting vehicles? The answer is obviously a big NO. If we were to factor only economics even then it makes no economic sense to have more polluting vehicles on the roads. The effect of pollution on the environment and health is so huge that it cannot be compensated in the marginal extra profits that the manufacturers might make. The amount spent on countering

the ills of pollution such as polluted air, damaged lungs and the cost of healthcare far outweigh the profits earned.

18. It was urged on behalf of the manufacturers that there are multiple sources of pollution and vehicles only contribute to 2% of the pollution. We are not in agreement with this submission because the Report of the Committee to which we have adverted hereinabove states that contribution of vehicles to ambient PM_{2.5} concentration during winter season is 25% and in the summer season it contributes 9%. Even if we were to accept the figures submitted by SIAM, we are of the view that no step is too small when it comes to fighting pollution. Small steps to reduce pollution when taken together will lead to large scale reduction in pollution which will result in much cleaner air, which eventually will result in a cleaner and better environment, healthier citizens and most importantly a healthier generation to come.

19. In view of the fact that these proceedings have been pending in court for a long time and also in view of the fact that it is because of orders of this Court that BS-IV and now BS-VI norms have been introduced from the dates which were not even

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thought of by the Government, we feel that we have to take suo moto notice of the Rules. At the outset, we may notice that sub-rule 21 of Rule 115 is very vague. It does not talk of sale of vehicles. It only mentions registration of vehicles and permits registration of vehicles conforming to BS-IV norms up to 30.06.2020 and in case of categories M & N, up to 30.09.2020. This rule, in our view, is violative of Article 21 of the Constitution in as much as it extends time for registration of vehicles beyond 31.03.2020 and must be accordingly read down. Any extension of time in introducing the new norms which is not absolutely necessary adversely impacts the health of the citizens and is, therefore, violative of Article 21 of the Constitution of India. This Rule goes against the spirit of all the orders passed earlier by this Court. In the month of March, 2017 we were dealing with a situation when BS-VI norms were to be made effective throughout the country with effect from 01.04.2020 and this Court had directed that non- BS-IV compliant vehicles shall not be registered on or after 01.04.2017. The situation in the present case is totally different. 31.03.2020 is almost 1 ½ years away. There is sufficient time for the manufacturers to change over to the new system and, therefore, we see no reason why they should

be given a window of three or six months for sale of accumulated vehicles. Every vehicle sold after the cut-off date of 01.04.2020 is bound to cause more pollution and, therefore, the manufacturers, in our considered view, cannot be permitted to sell any non-BS-VI compliant vehicle on or after 01.04.2020. On the one hand, the Government has been pro-active in spending huge amounts of money to move to the BS-VI technology, but on the other hand, the automobile industry is coming up with a variety of untenable excuses just to delay the introduction of BS-VI compliant vehicles by a few months. We, in our judgment dated 13.04.2017, had clearly held "when the health of millions of our countrymen is involved, notification relating to commercial activities ought not to be interpreted in a literal manner." We have to give a purposive interpretation to notifications specially those dealing with public health issues and even more so, when health not only of the citizens at present but also the citizens in the future is involved. There is more than sufficient time for the manufacturers to manufacture BS-VI compliant vehicles. They already have the technology to do so. The automobile industry must show the will, responsibility and urgency in this regard.

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20. The Government has developed a policy of phasing out polluting vehicles and discouraging the manufacturers of polluting vehicles. This has been done in a gradual manner. Europe introduced Euro-IV fuel in the year 2009 and Euro-VI standards in 2015. We are already many years behind them. We cannot afford to fall back further even by a single day. The need of the hour is to move to a cleaner fuel as early as possible.

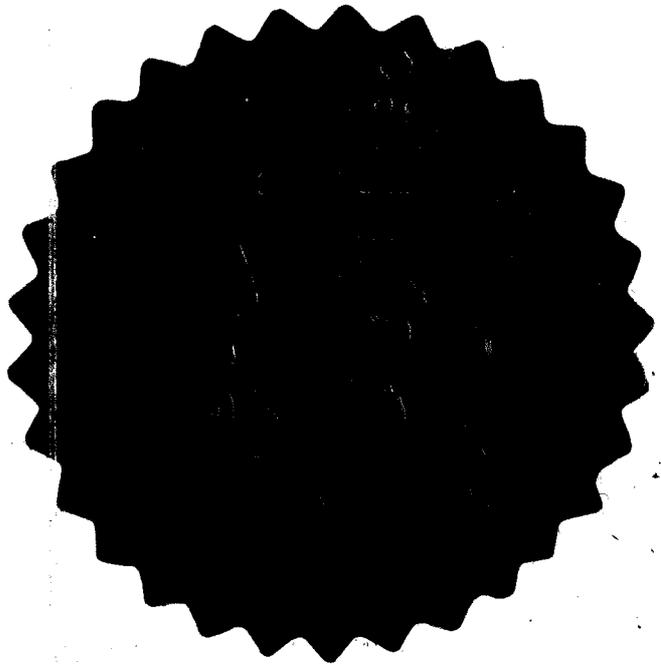
21. Therefore, in exercise of the power vested in this Court under Article 142 of the Constitution, we read down sub-rule 21 of Rule 115 and direct that sub-rule 21 of Rule 115 shall be interpreted and understood to read that no motor vehicle conforming to the emission standard Bharat Stage-IV shall be sold or registered in the entire country with effect from 01.04.2020.

.....sd/-.....J.
(MADAN B. LOKUR)

.....sd/-.....J.
(S. ABDUL NAZEER)

.....sd/-.....J.
(DEEPAK GUPTA)

New Delhi
October 24, 2018



SEALING UNIT