

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SOUTHERN
ZONE) CHENNAI**

ORIGINAL APPLICATION NO. 183 OF 2016

IN THE MATTER OF

Sh Vinay Shivanand Naik,

... APPLICANT(S)

VERSUS

State of Karnataka & Ors.

... RESPONDENTS

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Place: Bengaluru

Date: 24-08-2021



DEPONENT

S. SURESH
REGIONAL DIRECTOR
CENTRAL POLLUTION CONTROL BOARD
REGIONAL DIRECTORATE (SOUTH)
MIN. OF ENV, FORESTS & CC, GOVT. OF INDIA
BENGALURU - 560 079. MOB : 9480672128

JOINT REPORT ON-
“ACTION TAKEN TO IMPLEMENT THE
CENTRAL GOVERNMENT POLICY OF CLEAN
AND GREEN FUEL IN BENGALURU,
KARNATAKA”

in Compliance to
Directions of the Hon’ble Tribunal, Southern Zone,
Chennai

(in the matter of O. A. No. 183/2016)



August, 2021

Joint Report on Action Taken to Implement the Central Government Policy of Clean and Green Fuel in Bengaluru, Karnataka

1.0 Background

In Original Application No. 183 of 2016 (SZ) in the matter of Sh Vinay Shivanand Naik Vs State of Karnataka & Ors. Hon'ble NGT, Southern Zone, Chennai issued directions to Bengaluru Metropolitan Transport Corporation (BMTC), State of Karnataka to come up with an action plan to implement the clean and green fuel policy. The Hon'ble Tribunal also referred to the earlier order of Vardhaman Kaushik Case before Hon'ble NGT, Principal Bench, Delhi regarding directions to the Delhi Government to change all the old public transport vehicles to curb the pollution on account of use of old motor vehicle in the area.

2.0 NGT Directions

Hon'ble NGT vide order dated 16.07.2021 mentioned that *“11. If the Government of Karnataka as well as the Bengaluru Metropolitan Transport Corporation (BMTC) can furnish a concrete action plan, which they envisaged for the purpose of replacing the old diesel vehicles to new green and clean fuel vehicles with shorter time line, then this Tribunal can accept their action plan and pass appropriate orders giving direction to implement the same within the timeline undertaking by them or to be fixed by this Tribunal.*

15. The State of Karnataka, Transport Department and also the Bengaluru Metropolitan Transport Corporation (BMTC) are directed to come with an action plan for replacing the old vehicles with new environment friendly vehicles with shorter timeline in the Transport Corporation as well as in the Bangalore City.

16. The Central Pollution Control Board as well as the Karnataka State Pollution Control Board are also directed to come with further reports regarding the action taken by them for implementing the Central Government Policy of clean and green fuel in the State of Karnataka, especially in Bangalore City and also the direction given by the National Green Tribunal, Principal Bench, New Delhi in this regard.”

Copy of Hon'ble NGT Order appended as **Annexure I**.

3.0 Action Taken

In compliance to the aforesaid order of Hon'ble NGT dated 16.07.2021, CPCB, RD, Bengaluru conducted a meeting through video conference on 10.08.2021 to discuss the status of implementation of the Hon'ble NGT directions with Bengaluru Metropolitan Transport Corporation (BMTC) and Karnataka State Pollution Control Board (KSPCB). BMTC explained the status of compliance of the Hon'ble NGT directions in the aforesaid order dated 16.07.2021. In the meeting, Karnataka SPCB was requested to arrange for the action plan with timelines for implementation of Central Government Policy of Clean and Green Fuel in Bengaluru, Karnataka.

CPCB, RD, Bengaluru had a meeting to discuss the Action Plan with timelines submitted by BMTC on 17.08.2021 at Parisara Bhawan, Karnataka State Pollution Control Board, Head Quarter, Bengaluru.

4.0 Status of Compliance

Bengaluru Metropolitan Transport Corporation (BMTC) vide letter no. BMTC/CO/ME/404/2020-21 dated 16.08.2021. It has been mentioned in the report that out of total 6512 buses, 3797 buses are of BSIV make. Whereas, remaining 2715 BS III buses will be replaced with Electrical and BSVI buses by 2024. The timelines for replacing 2715 BSIII buses as given by BMTC are provided below;

S.No	Number of Old Vehicles to be replaced with Electric and BS VI buses	Time line	Remarks
1.	1033 BSIII buses	31.03.2022	All the BS III buses will be replaced by Electric and BS VI make buses only if funds are provided by Government of Karnataka for purchase of new buses and vehicles ply & assured kilometers are achieved.
2.	550 BSIII buses	31.03.2023	
3.	650 BSIII buses	31.03.2024	
4.	482 BSIII buses	31.03.2024	

It was also mentioned that, out of 3797 BS IV buses, 2158 BS IV buses were newly purchased from 2017 onwards. Further, remaining 1639 old BS IV vehicles will be scrapped in phased manner as per the scrapping policy of Government of Karnataka until the draft of the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021 are notified.

BMTC has also mentioned about the emission checking procedures for the vehicles followed to keep a check on the emission levels below the permissible limit. Copy of the report provided by BMTC is appended as **Annexure II**.

5.0 Concluding Remarks

The timelines for replacing the BS III vehicles to BS VI vehicles and scrapping of old vehicles provided by BMTC may be considered by the Hon'ble Tribunal. The emission standards for Bharat Stage VI (BS VI) for the vehicles manufactured on or after 1st April 2020 notified by the Ministry of Road Transport and Highways vide G.S.R. 889(E) dated 16th

September, 2016 will be in place in Bengaluru, Karnataka with the induction of BS VI vehicles as agreed by BMTC.

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 183 of 2016 (SZ)

(Through Video Conference)

IN THE MATTER OF:

Shri Vinay Shivanand Naik

... Applicant(s)



Versus

State of Karnataka & Ors.

...Respondent(s)

Date of hearing: 16.07.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE MR. Dr. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s):

Mr. Jayakumar S Patil, Sr. Adv. along with
Mr. Anu Ganesan.

For Respondent(s):

Mr. Darpan K.M. for R1.
Ms. Kavitha represented
M/s. P.D. Surana for R2, R3, R5, R6.
Mr. R. Thirunavukarasu for R4.
Mr. D. Prasana represented
M/s. Giridhar and Sai for R7.
Mrs. Me. Saraswathy for R9.
Mr. Bharadwaja Rama Subramaniam along with
Mr. Nalina Gouda for R11.

ORDER

1. As per order dated 24.09.2020, this Tribunal had considered the affidavit filed by the Chief Mechanical Engineer (Production) of the Bengaluru Metropolitan Transport Corporation (BMTC) which was extracted in Para 4 of the order and then, passed the following order:-

“5. On going through the affidavit, it appears that nothing fruitful has happened in converting the old vehicles in a phased manner to the new eco-friendly vehicles and still they are in the process of tender of purchasing new electricity vehicle and shifting of old vehicle of BS - VI Model.

6. They have not given any time line within which these things can be implemented. As per the previous order, we have directed not only the Bengaluru Metropolitan Transport Corporation (BMTC) but also the State of Karnataka to come with an action plan in this regard.

7. When this was pointed out, Sri. Darpan, the learned counsel appearing for the 1st respondent submitted that they will come with a proper action plan in this regard on the basis of the policy of the State Government as to how they are going to implement the clean and green fuel policy while introducing the new model vehicles in the place of old model vehicles which are plying in the state.

8. Even earlier in Varadaman Kaushik case, the Principle Bench of National Green Tribunal had directed the Delhi Government to change all the old public transport vehicles to clean and green fuel efficient vehicles or eco-friendly vehicles to curb the pollution on account of use of old motor vehicles in the area.

9. In the same decision, the Principal Bench of National Green Tribunal had directed the other State Governments also to implement the directions in a phased manner so as to make their States eco-friendly and pollution free.

10. In spite of that no effective steps have been taken by the Governments including the 1st respondent herein to implement that direction in the respective States.

11. There was already a direction by the Hon'ble Apex Court as well that after 01.04.2020, no BS-IV Vehicles should be registered and some relaxation has been made for purchasing BS-IV Vehicles only for public utility vehicles in respect of Corporations and other departments till that period and not for public transport system.

12. So considering the circumstances, we feel that some more time can be given to the Bengaluru Metropolitan Transport Corporation (BMTC) as well as the State of Karnataka to come with a proper action plan for changing the old vehicles in a phased manner as directed in Vardhaman Kaushik's case with clean and green fuel technology.

13. So, they are directed to submit an action plan with specific time line, instead of giving a vague time line within which it will be done with necessary budget provision.

14. They are directed to submit the report to this Tribunal on or before 24.11.2020 by e-filing along with necessary hard copies to be produced as per rules.

15. The learned counsel appearing for the Bengaluru Metropolitan Transport Corporation (BMTTC) is directed to serve the copy of the report submitted by them dated 23.09.2020 to other counsel appearing in this matter before the next hearing date.

16. The Registry is directed to communicate this order to the above said officials through e-mail immediately so as to enable them to comply with the direction."

2. The case was posted to 24.11.2020 for consideration of further action taken report to be filed by the authorities. Thereafter, the matter has been adjourned from time to time by successive notifications and lastly, it was adjourned to today as per notification dated 02.06.2021.
3. When the matter came up for hearing today through Video Conference, Mr. Jayakumar S Patil, Senior Advocate along with Mr. Anu Ganesan represented the applicant. Mr. Darpan K.M. represented 1st respondent, Ms. Kavitha represented M/s. P.D. Surana for respondents 2, 3, 5 & 6, Mr. R. Thirunavukarasu represented 4th respondent, Mr. D. Prasana represented M/s. Giridhar and Sai for 7th respondent, Mrs. Me. Saraswathy represented 9th respondent and Mr. Bharadwaja Rama Subramaniam along with Mr. Nalina Gouda represented 11th respondent.

4. We have received the reply affidavit dated 14.07.2021 e-filed and received on 15.07.2021 filed by the 3rd respondent to the written submission of the applicant dated 27.05.2021 which reads as follows:-

“The Third Respondent in the above case begs to file the following reply to the written submissions of the Applicant which were filed on 27-05-2021 :-

1. The above petition is filed during the year 2016. During the year 2016 BS-III emission norms were prevailing. It is submitted that having regard to emission norms which were prevailing then, the above petition is filed.
2. That BS-IV emission norms are implemented by Central Government as per the provisions of Motor Vehicle Act from 01-04-2017. That thereafter from 1st April 2020, BS-VI norms are implemented. The emission standards which are prescribed for diesel buses from BS-I standard to BS-VI standard are as follows :

Norms	NOx	CO	HC	PM
Bharat Stage I	8.0	4.5	1.1	0.36
Bharat Stage II	7.0	4.0	1.1	0.15
Bharat Stage III	5.0	2.1	0.66	0.10
Bharat Stage IV	3.5	1.5	0.46	0.02
Bharat Stage V	2.0	1.5	0.46	0.02
Bharat Stage VI	0.40	1.5	0.13	0.01

3. That the emission norms for BS-VI CNG and diesel buses are as follows :

Emission	UOM	BS4 Diesel CNG	BS6 Diesel CNG	% reduction in BS6 diesel emissions from BS4

CO	(gkWh)	1.5	1.5	1.5	1.5	No change
HC	(gkWh)	0.46		0.13		72% reduction from BS4
NMHC	(gkWh)		0.55		0.16	
NOX	(gkWh)	3.50	3.50	0.40	0.46	89% reduction from BS4
CH4	gkWh		1.1		0.50	
PM Mass	gkWh	0.02	0.03	0.01	0.01	5-% reduction from BS4

4. This respondent herewith producing the e-mail communication dated 21-06-2021 sent by the Sales Manager of M/s.Ashok Leyland, who are the manufacturers of bus chasis. A detailed emission norms are furnished by them in comparison to BS-IV and BS-VI vehicles with reference to diesel and CNG. The emission norms prescribed for the diesel vehicles and CNG vehicles for BS-VI make, makes it clear that the diesel vehicles are more environmental friendly than the CNG BS-VI norms vehicles. It is submitted that in view of the emission norms prescribed for BS-VI make diesel buses are better in all respects when compared to BS-VI CNG buses.

5. It is submitted that this Hon'ble Court was pleased to pass an order dated 12-01-2017 permitting this respondent to purchase diesel vehicles of BS-IV make. This Hon'ble Court was pleased to observe referring to judgment of Supreme Court referring to MC Mehta's case as follows :

"Learned Counsel also submitted that even the Hon'ble Supreme Court in M.C.Mehta Vs. Union of India ((2002) 4 SCC 356) though found that the analysis emphasizes the need for change to non liquid fuel like CNG or LPG so as to improve the air quality in this country, it was also fund that the CNG vehicles are 15 times better them Euro II diesel vehicles and only Euro IV diesel vehicles are comparable to CNG vehicles and in such circumstances, permission be granted to purchase the BS IV norm buses. It was also submitted that the diesel

buses to be purchased are for plying in the State outside the Bengaluru city and those buses would enter the city of Bengaluru only to drop and take the passengers from the Bus Stand”.

6. The submissions made by the learned Counsel appearing for the applicant is also noted in the said order dated 12-01-2017, which is as follows :

“Learned Counsel also argued that the quality of CNG fuel now available in the market has improved compared with the CNG available at the time when the Hon’ble Supreme Court considered the issue in M.C.Mehta Vs Union of India ((2002) 4 SC 356) case and at present the efficiency of CNG fuel and the CNG vehicles cannot be compared to the Euro IV vehicles and they could only be compared to only Euro VI norm buses and in such circumstances, permission may be granted and even if permission is to be granted, necessary restriction be imposed.”

7. Under the above circumstances the applicant himself has maintained that the emission of BS-VI vehicles are comparable to CNG buses. The diesel BS-VI are more environmental friendly in the matter of emission than the CNG buses. The applicant having made a statement which is noted by this Hon’ble Court in order dated 12-01-2017 cannot contend now that only CNG buses should be operated in Bangalore City.
8. This respondent has submitted replacement plan to replace all the 10 years old vehicles which are of BS-I to BS-III make by BS-VI make vehicles. In the event permission is granted all the 10 years old vehicles will be replaced by BS-VI vehicles which will reduce the pollution to a larger extent.
9. With reference to para 2 to 2.2, it is submitted that the observations made by this Hon’ble Court that the grant of permission to purchase diesel buses will not enable this respondent to contend that they need not switch over to CNG buses was the observation made by this Hon’ble Court having regard to the fact that the old buses of BS-I, BS-II and BS-III was sought to be replaced by purchasing BS-IV make buses. After the orders of this Hon’ble Court, from 01-02-2020, BS-VI

pollution norms are introduced. The emission standards of BS-VI norm diesel buses is comparable with emission standards for BS-VI CNG buses. Infact the diesel BS-VI buses are better environment friendly than the CNG buses. Therefore the said observation will not entitle the applicant to contend that CNG buses alone should be operated.

10. *With reference to para 3, it is submitted that the application was filed by the respondents to purchase in all 3,672 BS-IV norm compliance buses by the State Corporation. The statement of the applicant that the respondents have purchased 1,158 more BS-IV buses on the plea that only 1000 buses were allowed for being purchased by this Hon' le Tribunal on 12-01-2017 is not a correct statement. This respondent in compliance with the order of this Hon'ble Tribunal permission was sought for to purchase 2,672 BS-IV norm compliance buses by the State Corporation. Out of which this respondent corporation (BMTC) has purchased 2,158 buses as stated in para 4 of the affidavit. The plea that this respondent has committed contempt of this Hon'ble Court and violated the interim order is not a correct statement made by the applicant.*

11. *With reference to para 4, it is submitted that this respondent has given correct figures that as on date of filing of affidavit 2,813 BS-III make buses were available in BMTC fleet and the scrapping plan adopted by BMTC is to scrap the buses after they run 8.5 lakhs kilometers. The applicant cannot make any grievance about said scrapping plan. BS-IV norm buses are prescribed for registration from 01-04-2017 and BS-IV fuel was introduced from 01-04-2017. The respondents have not purchased any vehicles after 01-04-2010 which are of make of BS-I, BS-II and BS-III.*

12. *With reference to para 4.1, it is submitted that no fresh registration of BS-III buses are made by the transport department of Karnataka after 01-04-2017 and after 01-04-2020 only buses which are of BS-VI make are registered by the transport department which were purchased as permitted by this Hon'ble Tribunal. The question of registration of BS-III buses after the said dates do not arise at all and this respondent*

is also not purchasing any BS-III buses and therefore the question of registration of buses will not arise at all.

13. *With reference to para 4.2, it is submitted that the buses used for public transportation have been mentioned correctly. The BMTC is not operating any buses by taking on lease. Efforts were made to procure electrical buses on hire basis under FAME-I scheme promogulated by Central Government. But the efforts have not been fruitful for various reasons. The Central Government has promogulated FAME-II scheme, which enables the State Road Transport Corporation to avail incentives to hire electrical buses. The proposal to hire 300 electrical buses is in the process of finalization. 90 electrical buses are sought to be introduced under Smart City Program of the Central Government. Letter of Award dated 05-02-2021 is issued to NTPC Vidyut Vyapar Nigam Limited, New Delhi to procure 90 electrical buses on hire basis. The said NTPC Vidyut Vyapar Nigam Limited, New Delhi has to execute the agreement for providing vehicles. The requirement of executing agreement is pending due to lock-downs imposed in State of Karnataka due to covid-19 (second wave). BMTC is not owning any trucks. That in M.C.Mehta case the directions were issued to reduce the operation of diesel buses having regard to emission norms which were prevailing at the given point of time. Now from 01-04-2020 BS-VI norms are introduced. These norms are fuel neutral and so far as emissions are concerned the BS-VI diesel vehicles are more enviroinmental friendly than CNG buses. Infact the burning of CNG produces heat and it also emits many micro particles which are more dangerous to health.*

14. *With reference to para 4.3, it is submitted that the applicant appears to be more interested to help the producers of Retrofits. Fixing of retrofits in the diesel buses to use CNG is not safe either for vehicle and also for the public. It is submitted that the retrofits which were operated in other parts of the Country have resulted in fire hazards. It also leads to leakage of CNG. The diesel engine cannot be operated by using CNG by fixing the Retrofits. The design of the diesel engine do not permit the safe use of CNG as a fuel in the place of the diesel. Fixing of retrofits to operate diesel buses. More than 94% of the diesel*

buses are operated by all the State Road Transport Corporations in India.

15. With reference to para 4.4, it is submitted that no action appears to have been taken on the report of the committee appointed to suggest the auto fuel policy. The recommendations furnished by the committee were required to be implemented till 2025 on the view that the BS-VI norms will be brought into force in the year 2025. The oil companies of Central Government have started supply BS-IV fuel for being used by vehicles 01-04-2017. It is submitted that from 01-04-2020 BS-VI emission norms are introduced and these norms are based on the neutrality of all the fuels i.e. the emission which will be produced by any one of the fuel will be on par with on other fuel. It is submitted that the committee suggested the fixing of devices for catalytic treatment of the gases which are emitted at the exhaust mouth of the vehicle. The committee did not suggest that the retrofits must be fixed to use CNG as fuel in place of diesel. It is submitted that in BS-IV make buses which are operated by the respondent are provided with mechanism of spraying urea at the mouth of the exhaust to convert the gases and to make emission environmental friendly. It is submitted there is nothing like renewal of registration certificate. The registration certificate issued to vehicle continues till the vehicle is scrapped. The respondent are having diesel vehicles which have completed the run of 8.5 lakhs kilo meters. The statement that respondents have continued to renew the registration of vehicles is not correct. The further say of the applicant that these respondents have committed contempt is not correct.

16. With regard to para 4.5, it is submitted that KSRTC is a establishment which caters to the need of travelling public in various cities of Karnataka and it is not operating for catering need of the passengers travelling within the city. The transportation facilities are provided by BMTC for the passengers travelling within Bangalore City and its neighbouring suburbs. The KSRTC only carries the passengers from its main bus stand of Bengaluru to the areas outside Bengaluru who commence journey from Bengaluru or terminate their journey at Bengaluru. All the highways which are leading to other

cities from Bengaluru are located at a distance of nearly 4 to 5 kilometers from Majestic Bus stand. The pick-up points are enroute for going out of city. The KSRTC has also established satellite bus stand in Bangalore City which are on peripheral areas of the City and buses are also operated from Satellite bus stands. The say of the applicant that KSRTC operates buses through Bengaluru and have dozen bus stands for pick-up points and such pick-up points are scattered throughout Bangalore City is not a correct statement made by applicant. The expert committee report of Dr.Bhbure Lal of 01-02-2017 was during the period when BS-III norms of emissions were in force. The operation of KSRTC buses from bus stands to go out of city is highly negligible length of the journey under taken by the bus. The statement that the KSRTC has one dozen bus stands in Bengaluru City is not correct. It has only 3 satellite bus stands in peripheral area of Bengaluru City. The KSRTC buses are not using any of the bus stops of BMTC for pick-up or dropping passengers.

17. With regard to para 5.1, it is submitted that efforts were made to introduce electrical buses. But for various reasons the efforts have failed. There is no infrastructure available in Bengaluru to introduce CNG buses. CNG buses are not environmental friendly they produce more heat and during the pendency of the above proceedings the emission norms have undergone change. At the time when the petition was filed BS-III emission norms were in force. Thereafter BS-IV norms fuel was made available for being used from 01-04-2017. Normally from BS-IV norms the emission standard could have been improved to BS-V norms. But the emission norms were improved from BS-IV norms to BS-VI norms. Under the circumstances the operation of BS-VI norms diesel buses is permissible in law and they also result in drastically reducing the pollution. That apart, the emissions of diesel and CNG BS-VI norms is fuel neutral. There is no difference whatsoever in the emission norms between the said two fuels. Further in diesel buses are more easy to maintain than CNG buses.

18. With regard to para 5.2, it is submitted that directions issued by Karnataka Pollution Control Board (respondent No.4) was the subject

matter of consideration by the Hon'ble High Court of Karnataka in W.P.No.39432/2013. The said writ petition is disposed off by Division Bench of Hon'ble High Court of Karnataka by order dated 01-07-2015. Under the circumstances the applicant cannot think of projecting the orders of the Pollution Control Board in the present application.,

19. *With regard to para 5.3, 5.4, 5.5 and 5.6, it is submitted that during the pendency of above application, the respondents have replaced BS-I, BS-II and BS-III norms buses by BS-IV norm buses in view of the permission which was granted by this Hon'ble Court by order dated 12-01-2017. The remaining old buses will be replaced by BS-VI norm buses as already submitted by this respondent. Tenders were floated for introducing electrical buses but for various reasons and beyond the control of respondents, the respondents were not able to carry forward the tender process. Now as submitted above work order have been issued for providing of 90 electrical buses and a tender is floated for introducing 300 electrical buses on hire basis as stated above. The collection of taxes by way of sale of fuel is the state subject and this respondents have no say in the matter. The taxes so collected are utilized for public benefit. Various works have been undertaken and implemented in the matter of improvement of traffic flow in Bangalore City and other areas. Various number of over bridges and under bridges are constructed in Bangalore City to reduce pollution at the junctions. The pollution is also reduced when the stoppage of vehicles at the junctions of the road are avoided. Infact long flyovers of few kilometers in length are constructed to facilitate the free flow of vehicles to go out of Bangalore City and by virtue of these flyovers the emission into the city is also reduced. Under the circumstances the statement of the applicant that steps are not taken to reduce the pollution is incorrect statement. The State Government has also formulated electrical vehicle policy to provide subsidies to purchase electrical vehicles. The assertion that polluted pays principle must be applied to respondent No.1 is only a illusory one.*

20. *With regard to para 6, it is submitted that the contentions of the applicant based on Dr.Bhure Lal expert committee and auto fuel*

policy are not the relevant on which the applicant can maintain the above application as submitted above in view of the enforcement of BS-VI emission norms. It is submitted that an expert committee can be appointed to study the emission of CNG buses and BS-VI norm buses. Such an exercise will result in demonstration that both the fuels are displaying same emissions. The emissions which are tested by the manufacturer of both the fuels is already produced before this Hon'ble Court along with statement of objections. The assertions that BS-VI buses have serious problems in meeting emission norms is not correct. It is submitted the vehicles are now manufactured of BS-VI compliance and the fuels supplied by oil companies is also BS-VI compliance. Under the circumstances the question of having any problem do not arise at all. So far as the directions of Karnataka State Pollution Board are no longer implementable in view of the order of the Hon'ble High Court of Karnataka in W.P.No.39432/2013. The assertion that the Hon'ble Supreme Court has ordered to use CNG and to have retrofits from 2002 is not a correct statement. Those orders related to Delhi only they do not relate to Bangalore City. The applicant cannot make any grievance about the interim application made by respondent to purchase BS-IV norm buses during the year 2017. The defense raised by the respondent is valid in law. The defense raised by respondent is in consonance with the standards of emission prescribed by Motor Vehicles Act and Air (Pollution) Control Act. The entire contention of the applicant with regard to the use of CNG is no longer feasible in view of various difficulties in using CNG and availability of CNG. It is submitted that there are about 80 lakhs vehicles which are in operation in Bangalore City. There are more than 1 lakh commercial vehicles and private buses which operates in Bangalore City. In comparison to the same only 6,512 buses are operated by BMTC. That BMTC is not a polluter of the air. Out of total quantity of emission which emanated by running of 80 lakhs vehicles the share of emission of BMTC is not even 0.09%.

21. With reference to para 7, the applicant has stated the proceedings of this Hon'ble Court which are matter of records. The case is pending for the reasons that the case was transferred to Delhi in views of filing

of interim application for the reasons that there was no sitting of this Hon' ble Tribunal and the case is retransferred from Delhi to this Hon'ble Court. From March, 2020 in view of covid-19 epidemic these respondents has suffered huge loses. The State Government have made grants to pay salaries to its employees. Apart from that the respondents have also raised loans on their properties to meet the recurring day to day expenses. The statement that the buses should be retrofitted to use CNG is not viable contention. That the BS-IV vehicles which are operated are provided with mechanism of spraying urea at the exhaust point of engine which greatly reduces the gases pollution. The KSRTC is not operating 14336 non BS-IV buses in Bangalore City. The further statement that 9,715 buses are operated in Bangalore City by KSRTC is misleading statement. No trucks are operated by respondents and there are no buses which are operated on lease basis. The respondents will replace all BS-I to BS-III vehicles with BS-VI norms vehicles which is a clean fuel and comparable with CNG the replacement of the BS-I to BS-III norm buses by BS-IV buses have reduced the pollution and this respondent is acting within frame work of law to replace the old vehicles by BS-VI norm vehicles. Infact the applicant himself has stated before this Hon'ble Court that BS-VI norms buses are comparable to CNG buses which is also recorded by this Hon'ble Court in the order dated 12-01-2017. Under the circumstances the various contentions which are advanced by the applicant are all liable to be rejected.

22. *With reference to para 8, it appears that the applicant is set-up only to plead and canvas the pleas of fixing retrofits to operate the diesel engine buses with CNG. Such adaptation is dangerous to the public safety. The burning of CNG will increase the heat of atmosphere apart from emitting may micro pollutants which are hazardous to the health. The applicant is responsible in delay in the replacement of old buses with new buses which are of clean fuel. The submissions that large number of children in Bangalore City are suffering from astma is far from truth. There is no such health condition existing in Bangalore as on today. The applicant is relying upon some reports which are not scientifically correct. The statement that nearly 9 out of 10 children in*

Bangalore are affected in their lungs is totally a misleading statement. The State Government is collecting taxes on fuel, it is spending larger amount in providing infrastructure like roads and other required infrastructure to reduce the pollution.

23. Under the circumstances the above application may please be dismissed."

5. The respondents 2, 5 & 6 have filed a memo adopting the written submission filed by the 3rd respondent.
6. The learned counsel appearing for the applicant submitted that even in the present written submission filed on behalf of the Bengaluru Metropolitan Transport Corporation (BMTTC), they have not given any time line as to how they are going to replace the existing vehicles to the green and clean fuel vehicles.
7. The learned counsel appearing for the respondents 2 & 3 submitted that if some time is granted, they will come with full details and also the time line within which the old vehicles can be replaced with new vehicles of green and clean fuel.
8. It may be mentioned here that the matter is of the year 2016. As early as on 2014, the Principal Bench of National Green Tribunal has issued certain directions in respect of replacing the old diesel vehicles with new vehicles within a time frame in a phased manner in *Vardhaman Kaushik* case. Though it was related to Delhi region, but there was an observation that the same will have to be adopted by other States as

well. Thereafter, the Hon'ble Apex Court also issued certain directions to the Government restricting the user of BS IV diesel vehicles upto 31.03.2020 and thereafter, there was a direction to shift over to BS-VI vehicles. The Motor Vehicles Department also issued directions in this regard on the basis of the policy decision taken by the Central Pollution Control Board. In spite of those aspects, the Transport Corporation is not coming with an action plan as to how they are going to replace the old vehicles with new vehicles.

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9. Though the learned counsel appearing for the Transport Corporation has stated that they are taking steps for phasing out the BS III vehicles, they have not given any details regarding number of such vehicles which were phased out and what is the stage of steps that they have taken in this regard as well.
 10. Though they have mentioned in the written submission submitted which was extracted above that they are going for electrical vehicles and also mentioned that as per the guidelines, BS - VI diesel vehicles are less emission of pollution and environment friendly than the CNG vehicles, but, they have not mentioned anything about the steps taken by them for shifting over to the BS VI vehicles and how much time they require for replacing the old vehicles to new vehicles as well.
 11. If the Government of Karnataka as well as the Bengaluru Metropolitan Transport Corporation (BMTC) can furnish a concrete action plan,

which they envisaged for the purpose of replacing the old diesel vehicles to new green and clean fuel vehicles with shorter time line, then this Tribunal can accept their action plan and pass appropriate orders giving direction to implement the same within the time line undertaking by them or to be fixed by this Tribunal. But unfortunately, such an exercise has not been done either by the State Government or by the Transport Corporation or other Government departments.

12. The Government owned Transport Corporation must be a model for implementing the Government Policy to ply environment friendly vehicles to avoid pollution.

13. The submission made in the written submission that the percentage of source of pollution on account of the user of their vehicles is very negligible and there are other sources of pollution available in the atmosphere is shocking and it cannot be a ground for the Transport Corporation to shirk their responsibility. It is a constitutional mandate to protect the environment as contemplated under Article 48 A of the Constitution of India. Further, providing clean environment as part of Right to Life is also a fundamental right to be provided by the Government to every citizens of the State as enshrined under Article 21 of the Constitution of India.

14. When these things were pointed out, the learned counsel appearing for the Bengaluru Metropolitan Transport Corporation (BMTC) as well as

the State Government submitted that if short time is granted, they will be able to come with a clear action plan from the Government as well as from the Transport Corporation to replace the old vehicles with new model vehicles of environment friendly nature, so as to make the Bangalore City an environment friendly city. With a hope that they will fulfil the promise given before this Tribunal, so as to enable this Tribunal to dispose of the case in an effective manner, we feel that some more time can be granted to them for that purpose.

15. The State of Karnataka, Transport Department and also the Bengaluru Metropolitan Transport Corporation (BMTCL) are directed to come with an action plan for replacing the old vehicles with new environment friendly vehicles with shorter time line in the Transport Corporation as well as in the Bangalore City.

16. The Central Pollution Control Board as well as the Karnataka State Pollution Control Board are also directed to come with further reports regarding the action taken by them for implementing the Central Government policy of clean and green fuel in the State of Karnataka, especially in Bangalore City and also the direction given by the National Green Tribunal, Principal Bench, New Delhi in this regard.

17. They are directed to file their respective reports to this Tribunal on or before 26.08.2021 by e-filing in the form of Searchable PDF/OCR

Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

18. The Registry is directed to communicate this order to the Chief Secretary, State of Karnataka, Principal Secretary for Environment and Transport and also to the official respondents including Central Pollution Control Board (CPCB), Karnataka State Pollution Control Board by e-mail immediately for their information and also to file their respective action plan as directed by this Tribunal within time frame fixed by this Tribunal.

19. For consideration of further action taken report, post on 26.08.2021.



Sd/-

.....J.M.
(Justice K. Ramakrishnan)

Sd/-

.....E.M.
(Dr. K. Satyagopal)

O.A. No.183/2016
16th July, 2021. Mn.

BANGALORE METROPOLITAN TRANSPORT CORPORATION

CENTRAL OFFICES: MECHANICAL ENGINEERING (M) DEPT.: BANGALORE
Tel. No: 080-22537493 e-mail: cmem@mybmtc.com

No. BMT/CO/ME (M)/1304/2020-21

Date: 16 /08/2021

Annexure II

Chief Law Officer,
Central Offices, BMT,
Bengaluru.

Sir,

Sub : Original Application No.183/2016(SZ) on the file of the NGT, Southern Zone,
Chennai.

Ref :- 1. BMT/CO/LAW/1136/2020-21 DTD 29.7.2021.

With respect to the above subject and reference, BMT having total fleet of 6512, out of which 3797 buses are of BS IV make buses, in which 2158 BS IV buses were purchased in the year 2017 onwards as per the Hon'ble NGT order dtd 12.1.2017.

Further, 2715 BSIII make buses are available and BMT has planned to replace all 2715 BS III make buses by Electrical and BS VI make buses by the end of 31.3.2024. But As per the plan, BS III buses were not scrapped or replaced them by BS VI make buses by the end of 31.3.2021 due to pandemic of COVID-19 during 2020 and 2021 due to the lockdown imposed by Government of Karnataka, during 2020 and 2021, BMT buses were not operated, which leads to buses under utilization and buses not covered the assured kilometers. BMT was also not able to purchase the new buses due to financial crisis.

As per scraping policy of corporation if the vehicles covers 8.5 lakh kms or 11 years whichever is earlier. Accordingly, BMT is planning to change all 2715 BS III make buses by Electrical and BS VI buses as follows : --

1. 1033 BSIII make buses will be scrapped and they will be changed by inducting electric and BS VI make buses by the end of 31.3.2022.
2. 550 BSIII make buses will be scrapped and they will be changed by inducting Electric and BSVI make buses by the end of 31.3.2023.
3. 650 BSIII make buses will be scrapped and they will be changed by inducting Electric and BSVI make buses by the end of 31.3.2024.
4. The remaining 482 BS III make buses will be scrapped and they will be changed by inducting Electric and BSVI make buses by the end of 31.3.2025.
5. Out of 3797 BS IV make buses, 2158 BSIV buses are newly purchased in the year 2017 onwards. Hence, remaining 1639 BS IV buses will be scrapped in a phased manner as per the policy of the corporation.

All BS III buses will be replaced by Electric and BS VI make buses only if any funds are provided by GoK for purchase of new buses and vehicle are utilized and assured kilometers are achieved.

Also, the draft notification issued by Ministry of Road Transport and Highways on 12th March 2021 in its G.S.R 177(E) is stated as below:

“52A: Non-Renewal of Certificate of registration of Government Vehicles: Notwithstanding anything contained in Rule 52, in the case of motor vehicles, owned by-

- (i) Central Government and its Departments;
- (ii) State/UT Governments and their Departments;
- (iii) Local Government Institutions namely, the Municipal Corporations or Municipalities or Panchayats;
- (iv) State Transport Undertakings established under the Road Transport Corporation Act, 1950 (64 of 1950) and the Companies Act, 2013 (18 of 2013);
- (v) Public Sector Undertakings;
- (vi) Autonomous bodies with the Central Government and State Governments,

the certificate of registration shall not be renewed after the lapse of fifteen years, as provided in Sub section (7) of Section 41, from the date of such certificate.”

From the above draft, it is understood that the certificate of registration of all the Government owned vehicles will not be renewed after the lapse of 15 yrs and has to be declared scrap.

After, final notification issued, BMTC will adopt the same in this behalf and the said notification will be effected in the corporation. Till, finalization of the draft notification, BMTC will follow its own scrapping policy.

Following are some of the measures taken to reduce the smoke emission in the buses operated by BMTC:

1. All 45 depots of BMTC are equipped with modernized smoke emission testing facilities. Every bus in a Depot under goes a standard emission check every month to ensure that the emission levels are maintained below permissible smoke levels.
2. If the bus is found to be emitting heavy smoke during en route operation, it will be withdrawn from the operation immediately and will be subjected to necessary repair works, will be ensured about the smoke emission levels within the prescribed norms and then be deployed for operation.
3. BMTC has 15 online smoke emission testing machines duly authorised by the RTO of Bengaluru. The said machines will be utilised for carrying out online smoke emission test on all the buses every 6 months and obtaining authorised PUC (Pollution Under Control) certificates for displaying them inside the buses. If the smoke emission level in a vehicle is more than the prescribed level, the vehicle will fail to pass the smoke emission test and PUC certificate will be not be printed. Such vehicles will be subjected to necessary repair works, wherein the emission

will be brought within the prescribed smoke emission limits and then undergoes the online test, once again for obtaining the PUC certificate.

Thanking you,

Yours Faithfully,


Chief Mechanical Engineer

Copy to:

- 1) PS to MD, BMTC, Central Offices, Bengaluru, for kind information of MD, BMTC, please.
- 2) PS to Director (IT), BMTC, Central Offices, Bengaluru, for kind information of Director (IT), BMTC, please.
- 3) Mrs. Selvi. P.K. SCD, CPCB, RD - Bengaluru, for kind information and necessary action.
- 4) Member Secretary, Head Office, M.G.Road, KSPCB, Bengaluru, for kind information and necessary action.