

**BEFORE THE NATIONAL GREEN TRIBUNAL SOUTH ZONE  
AT CHENNAI**

**I.A. No. 70 OF 2024  
in  
O.A. No. 87 OF 2024**

Krishnan CS  
Son of Mr. Sreenivasan  
Residing at F-205, Nandi Woods Apartments,  
Yelanahalli, Bangalore – 560 076.

... Applicant

-Vs-

1. The State of Karnataka,  
Through the Department of Transport,  
Vidhana Soudha, Ambedkar Veedhi,  
Bengaluru – 560 001  
Represented by its Chief Secretary
2. Karnataka State Pollution Control Board  
“Parisara Bhavana”, No. 49,  
Church Street, Bengaluru – 560 001  
Represented by its Chairman

... Respondents

**ADDITIONAL AFFIDAVIT**

I, CS Krishnan, Son of Mr. Srinivasan, aged about 50 years and residing at F-205, Nandi Woods Apartments, Yelanahalli, Bengaluru – 560 076, do hereby solemnly affirm and sincerely state as follows:

1. I am the Applicant in the Original Application and as such, I am well acquainted with the facts and circumstances of the case and therefore, competent to swear this affidavit.



2. I submit that the above interim application was filed seeking interim direction to the 1<sup>st</sup> respondent i.e., the State of Karnataka (through the Department of Transport), to immediately halt annual renewal of registration and remove from service all state owned diesel vehicles of pre-BS-IV manufacture and all state-owned diesel vehicles over 10 years of age or exceeding 10 lakh Kms, including all diesel vehicles of private sector ownership granted permits for public transport from plying in the State of Karnataka, unless they are refurbished for road safety and retrofitted for emissions. I submit that in addition to the averments contained in the Affidavit filed in the above Interim Application No. 70 of 2024, this additional affidavit is being filed to clarify the factual position and to bring on record certain other material facts.
3. I submit that studies have consistently shown that 60% of the air pollution in Karnataka is caused by vehicular emission and as on date, with the alarming and ever-increasing levels of pollution, the entire state of Karnataka has been declared as the non-attainment area. Cognizant of the fact that the automobile sector has been a cause of concern for public health, and although vehicle emissions is not the only source of air borne pollutants but certainly a large contributor, and in an attempt to shape up the public policy viz. Auto Fuel Vision & Policy 2025, and to lay down a roadmap for transition to ensure BS IV emissions norms and thereafter to BS – V norms, an expert committee comprising of 52 active participants from all relevant Ministries, industries, manufacturers, academicians, and NGOs was constituted.
4. I submit that thereafter the Report of the said Expert Committee on Auto Fuel Vision & Policy 2025 dated 02.05.2014 was presented / laid in the Parliament and adopted by the Government of India on 07.05.2015. The said report clearly states that *“Once an area is switched over entirely to BS IV, the existing stock of commercial vehicles, especially heavy-duty diesel units, should be directed to compulsorily get after-*



*treatment devices – that dramatically reduce particulate and NOx emissions – retro-fitted within two years, failing which their licence should not be renewed.”*

5. I submit that even prior to the abovementioned policy, as early as in 1991, the Hon’ble Supreme Court in the case of *M.C. Mehta vs. Union of India* took note of the fact that heavy vehicles operating in the city i.e., buses, trucks, defence vehicles is the main contributing factor to pollution and recommended attention against these vehicles. Thereafter, in the year 2002 i.e., a decade later, taking note of the fact that lack of concern or effort on the part of various governmental agencies has resulted in spiraling levels of pollution, and further that no effective steps were being taken by the administration in this regard, slew of directions were issued by the Apex Court including for phasing out of diesel buses and imposition of fine per day in the event of non-compliance thereof.
  
6. I submit that thereafter, in 2004, the division bench of the Hon’ble High Court of Karnataka in the case of *Karnataka Lorry Malikara Okkuta v. State of Karnataka*, in the context of notification banning entry of vehicles which are aged more than 15 years from the outer ring road, which was however not given effect to and had lapsed by efflux of time, held in para 14 and 18 of its judgment dated 17.08.2004 as follows:

*“14... the Government, though it is duty bound, is not performing its duties to control the vehicular pollution. Protection of the environment is a primary function of the executive. The Government should devise suitable measures and provide machinery for rigid enforcement of such measures as are necessary to curb the menace of chaotic traffic conditions and vehicular pollution with a view to ensure the welfare of the general public.*

.....

*18. Under the circumstances, it will be appropriate to direct the respondents to evolve some scheme after considering the details. Government should also give sufficient time to the vehicle owners for replacement of the old vehicles, in a phased manner, to make available the CNG fuel and to have the vehicles*



*converted to it in a phased manner. The authority concerned should overall monitor and check the two wheelers, four wheelers and other types of vehicles including commercial/transport vehicles as well as passenger vehicles, at important functions, and to see that they do not violate the prescribed norms of pollution and the traffic rules and to ensure the safety and welfare of the public. The authorities concerned are also free to take note of the direction issued by the Apex Court in M.C. Mehta's case (supra).” Twenty years later the Respondent has yet to adopt or implement any of the specific actions directed by the Hon’ble High Court of Karnataka and not a single Respondent owned truck or bus operates on CNG.”*

7. I submit that thereafter the Hon’ble High Court of Karnataka, once again in a *Suo Moto* public interest litigation viz. WP No. 39432 of 2013, vide order dated 01.07.2015, upon taking note of the various suggestions and plans put forth by the Pollution Control Board to reduce both air and noise pollution in Bengaluru, and submissions made thereof, directed the state and central government to implement the same. At this juncture, it was in fact submitted by Bengaluru Metropolitan Transport Corporation (“BMTC”) that phased conversion of diesel powered public transport vehicles to CNG vehicles is taken up seriously and natural gas pipelines are already laid from Dhabol in Maharashtra to Bengaluru and that the Committee would consider all aspects of the matter of replacement of the entire fleet of buses of BMTC in a phased manner and also discuss the financial aspect and make an action plan with the time-lines for the phased conversion and such proposal will be submitted before the court within two months. It was further submitted that a report is already placed by the Transport Commissioner and Home Department regarding the directions and other restrictions. However, even after a decade, transition plans and reports / strategies only remain on paper and there is not a single CNG bus operating in the State’s fleet.
8. I submit that thereafter in 2016, the Hon’ble Principal Bench of the National Green Tribunal in *Vardhaman Kaushik Vs. Union of India & Ors.* directed the order of the Tribunal in relation to all diesel vehicles more than 10 years of age and petrol vehicles which are more than 15 years of age shall not ply on the roads of NCT of Delhi, to be



enforced rigorously, and other States were also directed to take decision in this regard, particularly in relation to diesel vehicles which are of more than 10 years of age.

9. I further submit that thereafter this Hon'ble Tribunal vide order dated 13.04.2022 in O.A. No. 183 of 2016 (SZ) allowed the Application in part and disposed off the same with the following directions:

- (i) *The State of Karnataka is directed to strictly implement the directions issued by the Principal Bench of National Green Tribunal, New Delhi in Original Application No.681 of 2018 (PB).*
- (ii) *The State of Karnataka is also directed to implement the directions issued by the Central Pollution Control Board (CPCB) under the National Clean Air Programme and implement the action plan approved by the CPCB in the light of the directions issued by the Principal Bench in O.A. No.681 of 2018 (PB) as referred to above, strictly in compliance with the timelines provided in that action plan and the timeline provided by the CPCB.*
- (iii) *The State of Karnataka is also directed to form a monitoring committee under the leadership of (i) the Additional Chief Secretary to Government, Forests, Environment and Ecology Department, (ii) the Principal Secretary to Government, Department of Transport, (iii) the Additional Chief Secretary to Government, Department of Finance, (iv) a Senior Officer from the Integrated Regional Office, Central Pollution Control Board (CPCB) at Bangalore and (v) the Chairman – State Pollution Control Board (SPCB), Karnataka to review the action plan prepared for the implementation of the National Clean Air Programme and implementation of Clean and Green Fuel Policy in the State of Karnataka and implementation of the action plan (if any) already prepared by them pursuant to the directions given by the CPCB in compliance with the directions of the Principal Bench of National Green Tribunal, New Delhi in O.A. No.681 of 2018 (PB) and if there is any gap found, they are directed to evolve modified action plans to fill up the gap and fulfill the obligation of providing clean air in the State of Karnataka, including the critically polluted cities in the State of Karnataka which includes Bangalore as well.*
- (iv) *Meeting of the Committee mentioned above has to be reviewed by the Chief Secretary to Government, State of Karnataka periodically atleast once in three months and give necessary directions and support (both financial and technical) to implement the action plan so evolved*



*to achieve the goal, that too with shorter timelines. The Chief Secretary to Government, State of Karnataka is also directed to form District Level Committees to implement these programs in the respective districts as well to accomplish the goal of making the State of Karnataka, a pollution free State in compliance with the constitutional mandate of protecting environment under Article 48 A of the Constitution of India and providing a clean environment, including clean air as part of Right to Life as enshrined under Article 21 of the Constitution of India.*

- (v) *The Central Pollution Control Board (CPCB) is directed to monitor the implementation of the directions issued under the National Clean Air Programme and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.681 of 2018 (PB) and the directions issued by this Bench, consequential to the orders passed by the Principal Bench in respect of this case and submit periodical reports to this Tribunal regarding the progress and improvement in the air quality and further recommendations (if any) to be made for achieving the goal of National Clean Air Programme and implementation of National Clean and Green Fuel Policy to this Tribunal once in 4 (Four) Months till the goal is achieved in its entirety.*
- (vii) *Considering the circumstances, parties are directed to bear their respective cost in the application.*
- (viii) *The Registry is directed to communicate this order to the Chairman – Karnataka State Pollution Control Board, Integrated Regional Office, Central Pollution Control Board (CPCB) at Bangalore, the Principal Secretary to Government, Department of Transport, the Additional Chief Secretary to Government, Forests, Environment and Ecology Department, the Additional Chief Secretary to Government, Department of Finance, and the Chief Secretary to Government, State of Karnataka for their information and compliance of directions.*
- (ix) *As and when such reports are filed, the Registry is directed to place the same before the Bench for consideration and issuing necessary directions (if any) required in this regard.*

10. I submit that despite the directions of various Courts of Law as stated above and even after expiry of over two years from the aforesaid order dated 13.04.2022, no report or action is forthcoming from the Respondent. The Respondent State has consistently shown complete disregard to orders / directions and to it's own action plan(s). At this



junction, when it is clear that old heavy vehicles are a major contributor of air pollution, and an evaluation of Karnataka State Road Transport Corporation ("KSRTC") shows as of 2019-20 that 42.6% or close to half the buses in the KSRTC fleet beyond their scrapping age, interim direction as prayed for in the present application is unavoidable. In fact, 10 years later from the date of the order of the Hon'ble High Court of Karnataka stated supra, there is not a single CNG bus nor a single retrofitted bus in Karnataka State fleet and till date, the Respondent State is continuing to renew registration of non-BS-IV commercial diesel vehicles and commercial diesel vehicles over 10 years of age despite its own "Registered Vehicle Scrapping Policy of Karnataka, 2022" framed in exercise of powers conferred under section 65 Motor Vehicle Act, 1988. This is in addition to the administrative policies of each transport corporation which also suggests scrapping of diesel vehicles over 10 years of age or exceeding 10 Lakh Kms.

11. I submit that under these circumstances, immediate implementation of the scrapping policy is inevitable and the obfuscation and delay tactics from the Respondent State will continue in the absence of specific, time-bound order / direction from this Hon'ble Tribunal. From the facts narrated above, it is also clear that there exists prima facie case in favor of the grant of interim direction as sought for. Further, report from the 2<sup>nd</sup> Respondent herein i.e., Karnataka State Pollution Control Board ("KSPCB") shows that PM10 and PM2.5 levels in Bengaluru have been on the rise since 2020. The Ambient Air Quality is extremely hazardous that it affects eyes, ENT, upper Respiratory track and lungs, and as a consequence, school going children, infants, office going persons, poor strata of society have been suffering endlessly. Therefore, unless direction as sought for is granted by this Hon'ble Tribunal and non-compliant State-owned diesel vehicles are removed from service, the same will lead to gross prejudice and irreparable loss.

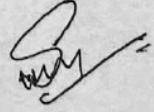


12. I further submit that in so far as the alternatives are concerned, various reports show that the State has proven and immediately available field-tested options of new buses and / or emissions retrofits. Further, the Respondent has had over a decade to address the issue, offered plans to various courts and tribunals but for reasons best known to them, has neglected to implement the same. The State's long, consistent pattern of ignoring orders, directives, policies and responsibilities at the expense of public health and right to life and its indifference is also clear from the non-utilization of available funds in terms of green tax, levied with effect from 01-04-2002 and its refusal to utilize funds from National Clean Air Programme. As per the Central Government's Portal for Regulation of Air Pollution in Non-Attainment Cities (PRANA), between 2019 and 2023, the Union government has disbursed Rs 541.1 Crores to Bengaluru, but shockingly, only 1.01% of this amount i.e., Rs. 5.47 Crores has been utilized by the Respondent State.

Under these circumstances, it is prayed that this Hon'ble Tribunal may be pleased to take on record this additional affidavit [REDACTED] in O.A. No. 87 of 2024 [REDACTED] and pass such other order/orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

Solemnly affirmed at Bengaluru on this the 28<sup>th</sup> day of August, 2024 and signed his name in my presence.

BEFORE ME

  
S. Sathies Kumar  
ADVOCATE, BENGALURU  
Sathies Kumar  
D/3495/2014

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**IA No. 70 of 2024 in OA No. 87 of 2024 - "Krishnan CS Vs. State of Karnataka & Anr." - NGT, Southern Zone at Chennai**

1 message

**Abilash A K** <mail@capitallawchambers.in>

Wed, Aug 28, 2024 at 3:27 PM

To: lexregula@gmail.com, darpan.advocate@gmail.com, Rajat Shaw &lt;rajatshaw178@gmail.com&gt;

Cc: anuganesan@capitallawchambers.in, Vignesh Venkat &lt;vignesh@capitallawchambers.in&gt;

Sir / Ma'am,

Please find attached herewith the **Additional Affidavit** filed by the Applicant in the subject referred Interim Application.

Regards,


**A K Abilash**

Associate Advocate, High Court of Madras

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 **Additional Affidavit in IA No. 70 of 2024 in OA No. 87 of 2024.pdf**  
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TRIBUNAL, SOUTHERN ZONE AT  
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**I.A. No. 70 OF 2024  
IN**

**O.A. No. 87 OF 2024**

In the matter of:

Krishnan CS

...Applicant

-Vs-

The State of Karnataka,  
Through the Department of Transport &  
Anr.

...Respondents

**ADDITIONAL AFFIDAVIT FILED BY  
THE APPLICANT**

<b>ANU GANESAN</b>	<b>(MS 1881/2015)</b>
<b>VIGNESH VENKATACHALAM</b>	<b>(MS 3587/2012)</b>
<b>A.K.ABILASH</b>	<b>(MS 3409/2023)</b>
<b>RAKSHITA.M</b>	<b>(MS 5392/2021)</b>
<b>ASHWIN.R</b>	<b>(MS 4964/2023)</b>

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