

**BEFORE THE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE) AT CHENNAI**

O.A.No.183/2016

BETWEEN:

SHRI VINAY SHIVANAND NAIK

.....APPLICANT

AND:

STATE OF KARNATAKA
& OTHERS

.....RESPONDENTS

**THE THIRD RESPONDENT IN THE ABOVE CASE BEGS TO FILE
THE FOLLOWING REPLY TO THE WRITTEN SUBMISSIONS OF
THE APPLICANT 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. The 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		0.40		89% reduction from BS4
		3.50		0.46		
CH4	gkWh		1.1			
				0.50		
PM Mass	gkWh	0.02		0.01		5-% reduction from BS4
		0.03		0.01		

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. The 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 found that the CNG vehicles are 15 times better than 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 environmental 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 catalistic 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 traveling 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 traveling within Bangalore City and its neighboring 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 kilo meters 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 through out 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

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.

Under these circumstances it is most humbly prayed that this hon'ble Tribunal may be pleased to dismiss the above Original application and thus render Justice.

Dated at Chennai on this the 14th day of July, 2021



Counsel for Respondent 3