

(2008) 07 CAL CK 0049
In the Calcutta High Court
Case No : Writ Petition No. 4183 (W) of 2007

Howrah Ganatantrik Nagarik Samity	Vs	APPELLANT
Union of India and Others		RESPONDENT

Date of Decision : 18-07-2008

Acts Referred:

Citation : AIR 2008 Cal 271

Hon'ble Judges : Surinder Singh Nijjar, C.J.; Pinaki Chandra Ghose, J

Bench : Division Bench

Advocate : Subhas Datta Petitioner No. 2 in person Balai Chandra Ray, Aloke Kumar Ghosh, Dilip De, for the Appellant; Subrata Dutt Respondent No. 1 Kallal Basu for W.B.P.C.B, for the Respondent

Judgement

Surinder Singh Nijjar, C.J.

The Judgment of the Court was delivered by:

1. Mr. Datta has placed on the record a supplementary affidavit on behalf of the petitioner affirmed on 15th July, 2008. In this affidavit it has been stated that the emissions from the two-stroke engine are much higher than that from four-stroke engine. However, the three-wheelers in the city are fitted with only two-stroke engine. Considering the tremendous environmental hazards from three-wheelers, different cities of the country have converted to eco-friendly modes by using LPG or CNG. However, the auto-rickshaws, rickshaws, the engines of which have been found unsuitable for conversion in various cities like Delhi. Mumbai, Bangalore, Hyderabad, Ahmadabad and Baroda have migrated to other cities of the countenancing Kolkata. This, therefore, has added to an already existing emergent pollution control problem. It is also stated that most of the auto-rickshaws which have migrated from other cities are over 15 years of age as they have been banned in the cities mentioned above. It is submitted that the Supreme Court in such circumstances had recommended the use of CNG as a permanent solution. The Government has also been directed by the Supreme Court as well as by some other High Courts to constitute monitoring committees

consisting of different segments of the Government as well as the Society to ensure that the remedial measures taken by the Government are made effective. It is brought to our notice that the Government had in fact issued a notification on 4th March, 2008 in which it is clearly noticed that the automobile pollution is a major source of air pollution. In this notification the earlier orders passed by this Court in CAN 233 of 2004 in W.P. 2125 (W) of 2001 have also been noticed. Thereafter certain directions have been issued with regard to the control of pollution. However, subsequently by another notification dated 29th May, 2008 the aforesaid notification has been kept in abeyance until further orders.

2. Learned Advocate General and Mr. Kallol Basu has, however, brought to our notice that the State Government as well as the West Bengal Pollution Control Board are taking active steps to somehow reduce the pollution in Kolkata City, if not bring it under total control. To this effect the Government in consultation with the West Bengal Pollution Control Board and in terms of Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 has issued another Notification dated 17th July, 2008. In this notification the following directions have been issued:

Transport vehicles of fifteen years old and more should not be allowed to operate and Motor Vehicles Department should not renew their RC./C.F./ Permit mentioned below.

Categories of the vehicles need to be phased out in the following manner:

Categories of vehicles

The date from which plying within Kolkata Metropolitan Area is Prohibited

Category of vehicle

eligible for

replacement

Metered Taxi registered originally before 01-01-1993

31-03-2009

BS- III mass emission standard compliant, metered Taxi (LPG or Diesel)

Stage Carriage as well as Contract Carriage omnibuses registered originally before 01-1-1993

31-03-2009

BS-III mass emission standard compliant vehicles of similar nature.

Mini Buses/Special

Stage Carriage

Omnibuses registered

originally before 01- 01-1993

31-03-2009

BS-III mass emission standard compliant State/Contract Carriage Vehicles of similar nature

Trucks/Mini Trucks/all other categories of goods carriages including 3-

31-03-2009

BS-III mass emission standard compliant goods vehicle/BS II

wheeler goods vehicles registered originally similar nature.

compliant 3-wheeler goods vehicles of before 01-01-1993

(ii) All registered auto rickshaws plying within Kolkata Municipal Area need to be converted into LPG or CNG mode by 31st March, 2009. Dual fuel option should not be permitted and accordingly Motor Vehicles Department should regulate their registration as auto-rickshaws in Kolkata Metropolitan area; Similarly all registered auto-rickshaws plying within Municipal area under Kolkata Metropolitan Development Authority need to be converted in LPG or CNG mode by 31st December, 2009. Unauthorized auto should be seized by the police authority and stop their plying in conformity with the order of the Hon"ble High Court, Calcutta.

iii) Alternative green fuel should be introduced along with necessary improvement of fuel should be done, particularly in reference to supply of LPG, necessary steps need to be taken for reduction of sulphur content of diesel and benzene content of petrol as per the Auto Fuel Policy of Govt. of India. Oil Companies should comply with such direction and also arrange for LPG, and CNG fuelling centre by which LPG or CNG driven vehicles should not face any problem during their plying in the route or may not face any scarcity of LPG or CNG required for their vehicles; Such action should be taken by the oil companies under intimation to the Department of Environment and West Bengal Pollution Control and also submit their action taken bar chart within August, 2008;

iv) Registration of auto rickshaw (three wheelers) having 2-stroke engines should be stopped immediately by the Motor Vehicles Department and such auto-rickshaw should be phased out completely by December, 2008; Police Authority should ensure the implementation of the aforementioned direction;

v) Air quality monitoring should be done by the West Bengal Pollution Control Board and regularly such report should be published in their website for public information;

vi) Pollution Under Control Certificate Issuance Centre (PUC) centres should be checked by the statutory authorities, i.e. West Bengal Pollution Control Board and Motor Vehicles Department, at a regular basis and if it is found that PUC

Centres are issuing fake certificate or without complying with the statutory norms as prescribed by the West Bengal Pollution Control Board and Motor Vehicles Department, in such case, Licence of the PUC Centres should be withdrawn immediately and such licences need to be suspended at least for two years with Rs. 25,000/(Rupees Twenty five thousand);

vii) Oil companies should take all precautionary steps to ensure that tanker supplying fuels from Refineries, Supply Depots to the petrol pumps, do not get adulterated during transit; In case of any Tanker found to be informed in adulteration of fuel, immediately licence should be suspended for a minimum period of twelve weeks and licence of the driver of such vehicle shall be suspended for a period of two years. The above action shall be taken in addition to any other action that may, otherwise, be initiated against Pump Owners.

viii) Urgent action should be taken by the police authority to control selling of adulterated oil and lubricants in open market.

3. The aforesaid contents of the Notification clearly show that a decision has been taken to phase out the transport vehicles which are fifteen years old or more. The last date fixed for phasing out of the vehicles is 31st March, 2009. The Notification also provides that auto-rickshaws plying within the Kolkata Municipal Area would be converted into LPG or CNG mode by 31st March, 2009. The menace of unauthorized autos being plied is also sought to be addressed by providing that the police authorities should take effective steps to prevent the plying of unauthorized auto-rickshaws. The notification also provides that alternative green fuel should also be introduced and along with necessary improvement of fuel should be done. Necessary steps have also been directed to be taken for reduction of sulphur content of diesel and benzene content of petrol. These are sought, to be brought at par with the Auto Fuel Policy of the Government of India. The oil companies have also been issued necessary directions to arrange for adequate fuelling centre for LPG and CNG. A mandatory direction has also been issued to stop the registration of the two-stroke engines by the Motor Vehicles Department. Further direction has also been issued that such auto-rickshaws should be phased out completely by December, 2008. The police authorities have also been directed to implement the aforesaid directions.

4. We are of the considered opinion that the aforesaid notification, if faithfully implemented, would, certainly have a favorable impact on the effort of the State-authorities to reduce/control the auto pollution within the Kolkata Municipal Area. In order to ensure that the aforesaid notification is duly implemented, we direct that the directions issued in the notification shall also be read as orders of this Court.

5. Learned Advocate General has also informed us that in accordance with the desire of this Court, the Government shall set up a Monitoring Committee which would include representatives of different departments concerned with pollution control and environment. The Committee would also include two experts, one

from Jadavpur University and the other from LLT., Kharagpur. The Monitoring Committee shall be constituted within fourteen days from today. As soon as the aforesaid Committee is constituted, it shall commence functioning forthwith. It shall also submit reports to this Court periodically as directed by the Court. All the implementing authorities including police authority as well as West Bengal Pollution Control Board shall also file periodic reports with regard to the effective steps taken in accordance with the order passed by this Court.

6. The matter stands adjourned for four weeks.

7. Xerox plain copy of this order duly countersigned by the Assistant Registrar (Court) be given to the learned Counsel for the parties on usual undertaking.

Pinaki Chandra Ghose, J.