
(2016) 01 SC CK 0057

In the Supreme Court Of India

Case No : I.A. Nos. 371, 372, 375, 376-377, 378-379, 380-381, 382, 383-384 & 385-386, 387, 388, 389 & 390, 391-392, 393, 394 in I.A. No. 365 in I.A. No. 345 and 395 & 396 in Writ Petition (Civil) No. 13029 of 1985.

M.C. Mehta

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-01-2016

Acts Referred:

Citation : (2016) 4 SCC 269

Hon'ble Judges : T.S. Thakur, CJI; R. Banumathi, J.

Bench : Division Bench

Advocate : Harish N. Salve Sr. Advocate, (A.C.), Aparajita Singh (A.C.), A.D.N. Rao (A.C.), Sidhartha Choudhary (A.C.), Advocates (Petitioner in person) Pooja Dhar and Arti Singh, Advocates, Dr. J.N. Dubey, Sr. Advocate, Anurag Dubey, Meenesh Dubey, Rajsh Pandey and S.R. Setia, Advocates and Pranav Rishi, Sudhir Naagar and Astha Sharma, Advocates, for the Appellant; Mukul Rohatgi, AG, Pinky Anand, ASG, Dr. Abhishek Atrey, Advocate and A.M. Singhvi, Sr. Advocate and Shyam Divan, Sr. Advocate D.S. Mahra, Ajay Sharma, R. Balasubramanian, Snidha Mehra, Balendu Sherhar, Karan Seth, Rishabh Jain, Praveen Swarup, Gaurav Yadav, Prabal Bagchi, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

1. Pursuant to our order dated 05.01.2016, an affidavit has been filed by Mr. Sibash Kabiraj, Deputy Inspector General, National Highways, Haryana stating that the directions regarding diversion of traffic from NH-1 and NH-8 have been implemented. The affidavit also indicates the diversion figures in Panipat. The affidavit further states that in so far as diversion of traffic from NH-2 and NH-10 is concerned, a preliminary meeting has taken place on 09.01.2016 in which some decisions have been taken which shall be finalised by the next meeting scheduled to be held on 23.01.2016. It is submitted that the direction issued by this Court for diversion of traffic from NH-2 and NH-10 shall be faithfully complied with pursuant to the deliberations held in the meeting dated

09.01.2015 and that scheduled to be held on 23.01.2016. The Deputy Inspector General (Traffic and Highways) shall accordingly file another affidavit indicating the steps taken in obedience to the directions of this Court.

2. Mr. Gaurav Bhatia, learned counsel for the State of U.P., prays for time and is granted two weeks time to file an affidavit indicating the steps taken by the authorities for complying with our directions dated 05.01.2016 regarding diversion of traffic on NH-58 and NH-57 away from Delhi.

3. Mr. Ranjit Kumar, learned Solicitor General may in the meantime take instructions from the National Highways Authority of India (for short, "the NHAI") as certain directions issued by us or those that we may issue in future would demand the presence of the said authority before us.

4. By our order dated 05.01.2016 we had requested the Solicitor General of India to file a Status Report as regards the feasibility of providing a leakage-free recovery of toll system like Radio Frequency Identification Device (RFID) or any other system supported by modern technology. Mr. Ranjit Kumar seeks some more time to do the needful. He is permitted to do so by the next date of hearing.

5. Mr. Ranjit Kumar further submits that the direction regarding setting up of 104 CNG stations in the 10 districts of National Capital Region by 31.03.2016 is being complied with and the authorities shall soon report further progress in the matter to Environment Pollution Control Authority (EPCA).

6. As regards our direction regarding augmenting of the bus fleet in the NCT of Delhi, Mr. Ranjit Kumar points out that at present there are around 6,000 buses being plied by the Delhi Transport Corporation. He submits that out of the 7 parcel of land allotted to the Government three have already been handed over to the Transport Department by the NCT of Delhi while the Government has yet to respond as to its requirement qua the 4th site. Three more sites mentioned in the list are according to Mr. Ranjit Kumar involved in litigation. He further points out that according to his instructions some of the bus parking areas remain unutilized. He submits that he will be able to make good that submission before EPCA given an opportunity to do so. We request EPCA to examine the matter and also to make its recommendations regarding providing of any further space for parking of buses.

7. We had directed Mr. Ranjit Kumar to take instructions from DMRC as to its plan for augmenting Metro Rail sector by increasing the frequency of trains. Mr. Ranjit Kumar submits that in so far as increasing the frequency of trains is concerned, DMRC finds it difficult to do so as any reduction in the intervals between trains will demand heavy capital investment which DMRC cannot make at present. He, however, submits that DMRC is committed to commissioning the new lines using new coaches between December, 2016 to December, 2017 which would see at least 486 more coaches in operation. He submits that the DMRC is augmenting its rolling stock by 420 additional coaches to be introduced in a phased manner by the end of December, 2017 and as and when the coaches are

delivered to DMRC the same will be immediately pressed into service. He undertakes to place the relevant facts and figures before EPCA in its next meeting in which event EPCA is requested to verify the true position and if necessary make recommendations to this Court for appropriate direction, if any.

8. As regards the advancement of Bharat-VI fuel, Mr. Ranjit Kumar, on instructions, submits that conversion has already been pre-poned from 2023 to April, 2020 and that according to his instructions it is not possible for Corporation to advance the said deadline any further. He, however, agrees to take up the matter with EPCA which shall examine and make recommendations as to the feasibility of further advancement, if any.

9. Mr. Ranjit Kumar seeks some time to take instructions about the possible phasing out of old diesel vehicles in use with the Government and other autonomous and statutory bodies under its control. He may do the needful within three weeks.

10. Mr. Harish N. Salve, learned amicus curiae shall in the meantime file his objections to I.A. No. 393 of 2011 filed by Union of India seeking exemption from the direction of this Court dated 16.12.2015 in so far as vehicles required for use by the special protection group are concerned.

11. Mr. Rahul Mehra, learned counsel for the State of NCT of Delhi submits on instructions that the Government of Delhi has already taken a decision that old diesel vehicles being used by the Delhi Government and its establishments shall be phased out. That submission is recorded.

12. By our order dated 16.12.2015, we had directed the State Government concerned to take steps to enforce the CPCB Rules and Regulations against those engaged in construction activity causing environmental pollution to prevent rise of such pollution.

13. Mr. Salve submits that in view of the above direction DPCC has issued certain notices to the projects found violating the pollution norms but no further details about those notices have been indicated. Learned Counsel for the State of Haryana states that action has been taken against the polluting construction sites and builder engaged in that activity. Learned counsel for the NCT of Delhi and State of Haryana are therefore permitted to file requisite data regarding steps taken against the polluting construction sites to the EPCA which may have the same verified and recommend appropriate action wherever it is called for.

14. We make it clear that since the question whether any polluting construction sites has gone scot free on account of any indifference or apathy on the part of the enforcement agency will require spot checks of verification. EPCA shall be free to make surprise checks wherever considered appropriate and submit a report as to the nature of the activity and the failure of enforcement agency in taking action against such violations. EPCA may also consider making use of credible volunteers/ organisations for undertaking such surprise checks on

construction sites.

15. We had by our order dated 16.12.2015 directed the Government of NCT of Delhi to take immediate steps for road repair work and also make pavements wherever the same are missing. Steps for procurement of requisite vacuum cleaning vehicles on Delhi road were also directed. Learned counsel for the NCT of Delhi submits that given two weeks time he will place the progress made on the direction before the EPCA which will look into the same and submit a report to this Court.

16. Learned counsel for the NCT of Delhi submits that although some vacuum cleaning work is being done during the day time but instructions will have to be issued to the concerned NDMC Department for such work being carried out in Delhi at night time also. As regards waste burning also we direct DPCC, Government of NCT of Delhi, State of Haryana, State of U.P. to report the action taken by them in compliance with the direction issued by this Court to the EPCA which shall make use of its volunteers and verify compliance and failure, if any, on the part of the enforcement agencies in doing the needful.

17. Mr. Harish Salve submits that not only had the Government of Delhi requested for closure of Badarpur Thermal Power Station but even EPCA report which has been filed before this Court recommends its closure. He submits that the Government of India could be asked to respond to the demand for closure of the Thermal Power Station at Badarpur and the NTPC could also be notified to make its submissions on that subject. Mr. Ranjit Kumar, learned Solicitor General has agreed to take instructions from the Government of India on the subject including instructions from the National Thermal Power Corporation through its Managing Director and to show cause why the Thermal Power Station at Badarpur should not be shut down or directed to make use of alternative or less polluting fuel instead of coal.

18. Notice shall in addition to Managing Director, NTPC returnable within three weeks.

IAs No. 395 and 396 of 2016

19. Mr. K.T.S. Tulsi, learned senior counsel has drawn our attention to I.As. No. 395 and 396 of 2016 in which the applicant has prayed for clarification of order dated 26.11.2014 passed by the National Green Tribunal for holding a vintage car rally. Mr. Tulsi submits that although the application for clarification of the Tribunal's order should have been made before the Tribunal itself yet it may decline to pass any orders keeping in view the fact that the present proceedings are pending before this Court. We, however, permit the applicant to approach the Tribunal with an application for clarification/exemption for the proposed vintage car rally as a one-time event. The pendency of these proceedings, we make it clear shall not prevent the Tribunal from passing appropriate orders on any such application.

20. List on 18th February, 2016.