
(2016) 08 SC CK 0264

In the Supreme Court Of India

Case No : I.A. Nos. 463-464, 466 in I.A. No. 365 in I.A. NO. 345 and I.A. No. 365 in I.A. No. 345 in W.P.(C) No. 13029 of 1985

M.C. Mehta

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 22-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 9 Scale 76

Hon'ble Judges : T.S. Thakur, CJI, A.K. Sikri and R. Banumathi, JJ.

Bench : Full Bench

Advocate : Mr. Harish N. Salve, Senior Advocate (A.C.), Mr. Sidhartha Chowdhury, (A.C.), Ms. Aprajita Singh and (A.C.), Mr. A.D.N. Rao, (A.C.), Advocates, (Petitioner-in-person), for the Petitioners; Mr. Mahabir Singh, Senior Advocate, Ms. Savita Devi, Ms. Mamta Rani and Ms. Preeti Singh, Advocates, for the Applicants; Mr. Ranjit Kumar, SG (U.O.I.), Ms. Pinky Anand, ASG, Mr. Shadman Ali, Mr. S. Wasim A. Qadri, Mr. Zaid Ali, Mr. D.S. Mahra, Mr. Mukul Singh, Mr. Vibhu Shankar Mishra, Mr. Sarfraz Ahmed Siddiqui, Mr. Satya Siddiqui, Mr. S.N. Terdal, Ms. V. Mohana, Senior Advocate, Mr. M.K. Maroria, Ms. Meenakshi Grover, Mr. Saurabh Kirpal, Mr. G.S. Makkar, (NDMC) Mr. Amrendra Sharan, Senior Advocate, Mr. Ajay Bansal, Mr. Praveen Swaroop, Mr. Gaurav Yadav, (NCT of Delhi) Mr. Chirag M. Shroff, Mr. Rahul Mehra, Mr. Saurab Nangia, (CPCB) Mr. Vijay Panjwani and Dr. Kailash Chand, Advocates, for the Respondents

Final Decision : Disposed Of

Judgement

1. By our Order dated 9th October, 2015 we had levied an "Environment Compensation Charge" on all light and heavy duty commercial vehicles entering Delhi from outside. The ECC was not however recoverable from the passenger vehicles and ambulances and also from vehicles carrying essential commodities, namely, food stuffs and oil tankers. The Government of N.C.T. of Delhi has pursuant to the said direction issued a notification dated 30th October, 2015 whereby it has exempted vehicles carrying raw vegetables, fruit, grains, milk and tankers carrying petroleum products from the levy of ECC. By another

notification dated 15th February, 2016, the earlier issued notification was clarified to the extent that vehicles carrying raw vegetables, fruit, grains, milk, egg, ice used as food item and tankers carrying petroleum products, shall be free from payment of ECC.

2. The present applications (I.As. No.463-464 and 466), filed by the New Haryana Poultry Association, pray for a direction/clarification to the extent that vehicles carrying poultry items may be exempted from payment of ECC as they generally fall under the expression food stuffs. Mr. Harish N. Salve, learned amicus, does not seriously oppose that prayer. In the circumstances, therefore, we direct that in clarification/modification of our Order dated 9th October, 2015 vehicles carrying poultry items into Delhi from outside, shall not be liable to pay any ECC.

3. I.As.No.463-464 and 466 are accordingly allowed and disposed of.

Radio Frequency Identification Device (RFID):

4. By our order dated 9th October, 2015, we had levied an "Environment Compensation Charge" on all light and heavy duty commercial vehicles entering Delhi from outside. The amount so collected was directed to be used exclusively for augmenting public transport and improving roads, particularly for the most vulnerable users like cyclists and pedestrians in Delhi. Environment Pollution (Prevention and Control) Authority (EPCA) has now submitted a report dated 10th August, 2016 according to which it has considered the feasibility of installing what is known as "Radio Frequency Identification Device" for effective and credible ECC collection and found the same to be feasible.

5. We have gone through the Report. We agree, in principle, that the suggestions made in the Report deserve to be accepted. From the Report it is evident that between 6th November, 2015 and 4th August, 2016, a total amount of Rs. 350 crores has been collected as ECC and deposited with the Transport Department. As against the said collection, the pre-tendering cost of RFID has been worked out to be Rs. 93 lakhs towards fees payable to RITES who was engaged for vetting the tender documents. The total project cost of RFID is estimated at Rs. 120 crores to be incurred over the next five years. The Report further suggests collection of Rs. 432 crores per month meaning thereby that RFID cost would be around 5.5 per cent of the current collection which is a relatively small amount to be paid for an effective compliance with the direction of this Court and for improving the quality of air that people of Delhi breath.

6. Mr. Salve, learned Amicus, submits that this Court could in modification of our Order dated 9th October, 2015, grant "in principle approval" for the use of a part of the ECC collected in the past towards the proposed installation of RFID in Delhi. He submits that the depending upon the improvement and the extent of collection of ECC, post installation of RFID, this Court could issue appropriate directions suitably balancing the equity among the State and the stakeholders. We see no reason to decline that prayer. We accordingly direct that a sum of Rs.

93 lakhs shall be released in favour of the RITES towards the fees payable to them for the service rendered. We further declare that the estimated cost on the installation of RFID may, in principle, be incurred from out of the ECC collection subject to further directions from this Court.

7. We are informed by learned counsel for the parties that the Report submitted by EPCA also makes a reference to the fact that the Government of N.C.T. of Delhi, EPCA and South Delhi Municipal Corporation have after due deliberations agreed that the execution of the RFID project shall be entrusted to the South Delhi Municipal Corporation as an executing agency. We therefore, expect the South Delhi Municipal Corporation to start the process of execution of the proposed project in the right earnest and submit a status report about the progress made within six weeks from today.