

(2016) 01 SC CK 0148

In the Supreme Court Of India

Case No : I.A. Nos. 366, 367, 368, 370, 371, 372 in I.A. No. 365 in I.A. No. 345, I.A. No. 369, 373, 374 in I.A. No. 366 in I.A. No. 365 in I.A. No. 345 in W.P.(C) No. 13029/1985, W.P.(C) No. 817 of 2015, W.P.(C) No. 728 of 2015, W.P.(C) No. 116 of 2013, C.A.D. No.

M.C. Mehta

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 05-01-2016

Acts Referred:

Citation : (2016) 1 Scale 271 : (2016) 4 SCC 269

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

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. Heard. By our order dated 16th December, 2015, we had issued several directions with a view to reducing the levels of air pollution within the National Capital Region. One of the said directions required the authorities to divert traffic entering from two entry points into Delhi, namely, Kundli border on N.H.-1 and Rajokri on N.H.-8. We had directed that heavy vehicular traffic on the said two highways that enters Delhi from Kundli border on N.H.-1 and Rajokri on N.H.-8, shall be diverted to bypass Delhi through such alternative routes as the transport/traffic departments of the governments concerned may stipulate. We are today told by Mr. Harish N. Salve, learned senior counsel appearing as amicus, that the said direction has been substantially complied with according to his instructions. Mr. Anil Grover, learned Additional Advocate General appearing for the State of Haryana, also submits that the State of Haryana has taken appropriate steps in the above direction and has diverted traffic away from Delhi by prescribing alternative routes. Learned Counsel, however, prays for some time to file a detailed status report as to the precise steps taken in that direction and also the extent of heavy commercial traffic diverted away from Delhi. He may do so within three weeks.

2. Learned Counsel for the parties submit that vehicular traffic on N.H.-1 and N.H.-8 alone do not contribute to the problems of the capital region. They submit that heavy commercial traffic is also entering Delhi from several other entry points and directions. For instance, heavy commercial traffic is entering Delhi from N.H.-10 that connects Sampla and Bahadurgarh at Tikri entry point. Similarly, heavy commercial traffic is entering Delhi from N.H.-2 and N.H.-58 which connect Palwal to Faridabad and Ghaziabad to Meerut respectively. Heavy commercial traffic running on State Highway No. 57, connecting Ghaziabad to Bagpat, also enters Delhi at Mohan Nagar and Shahdara entry points. They submit that heavy commercial traffic from these three highways should also be diverted to bypass Delhi and that this Court could direct the State Governments of Uttar Pradesh and Haryana to take appropriate steps for such diversion.

3. Mr. Ranjit Kumar, learned Solicitor General appearing for Union of India, submits on instructions of the Ministry of Road Transport and Highways (MORTH) that the National Highway Authority of India (NHAI) shall take immediate and appropriate steps to ensure that no inconvenience is caused to those using such alternative routes.

4. In the circumstances and keeping in view the submissions made at the Bar, we direct that heavy commercial traffic from N.H.-2, N.H.-10, N.H.58 and from State Highway No. 57 shall not be allowed to enter Delhi from the entry points mentioned above. Commercial vehicles that are Delhi bound shall however remain unaffected. We further direct that the State Governments and the NHAI shall take immediate steps for identifying and prescribing alternative routes for the heavy commercial traffic plying on the said highways with a view to bypassing Delhi. We will appreciate if the Central Government and NHAI lend a helping hand to the State Governments for making the diversion possible and taking immediate steps necessary for the convenience of those making use of the above highways.

5. We further direct that Environment Pollution Control Authority (EPCA), constituted under the Environment Protection Act, shall convene a meeting of officers from the State Governments concerned and the Government of India apart from the Municipal Corporations/Municipalities concerned to examine the feasibility of setting up of way-bridges at all such places as same as entry points for bringing the traffic into National Capital Region and the NCT of Delhi. The EPCA shall in consultation with the representatives of the Governments concerned examine whether such way-bridges have to be set up by the State Governments, the Union of India, the NHAI or the local bodies concerned. The modalities for setting up of the way-bridges can also be discussed by the EPCA suitably and a report in that regard submitted to this Court within three weeks from today.

6. By our Order dated 16th December, 2015, we had directed that empty/unladen vehicles bound for Delhi, can enter Delhi on payment of the ECC stipulated by this Court. We are today informed by Mr. Salve that implementation

of the said directive commenced from 17th December, 2015. Ms. Pinky Anand, learned ASG appearing for the South Delhi Municipal Corporation, however points out that the collection of ECC at the rates stipulated by this Court has begun but the performance of the toll contractor is not entirely satisfactory. The disclosure made by the toll collector as to the number of vehicles entering Delhi is not accurate according to Ms. Anand. The contractor has besides defaulted in the payment of the contracted amount and encashment of the bank guarantees. She submits on instructions that the Corporation is examining whether the existing contractual arrangement for the toll collection should be terminated. She argued that these proceedings should not stand between the Corporation and any such termination.

7. Mr. Salve, on the other hand, submits that while the Corporation is free to take whatever decisions are necessary in the circumstances, the collection of ECC cannot be jeopardised leave alone abandoned. He submits that the Corporation must, while taking any action against the existing contractor, put in place a suitable arrangement for collection of the toll and the ECC.

8. We do not propose to examine in these proceedings the validity of any action which the Corporation may decide or take against the contractor on the basis of the alleged default committed by him. All that we need say is that should the Corporation decide to make any change in the present arrangement for collection of the toll and the ECC, it shall make sure that an alternative arrangement is put in place so that ECC and toll collection does not suffer.

9. Mr. Salve submits on instructions that the Authorities are also toying with the idea of putting in place Radio Frequency Identification Device (RFID) for a more effective and credible toll collection. Mr. Ranjit Kumar, learned Solicitor General appearing for the Union of India, however submits that there are some other options also available which are equally effective because of better technology. He submits that the issue is still being examined at the appropriate level and an appropriate decision to make recovery of toll and ECC leakage-free shall be taken. We leave it open to the authority concerned to examine the feasibility of any better arrangement in place of the existing system, if the present system is not satisfactory or effective in any manner. We only hope that an appropriate decision on the subject will not be delayed any further and would expect the authorities concerned to file a status report on the subject by the next date of hearing.

10. We had also by our Order dated 16th December, 2015 directed that vehicles registered in the year 2005 or earlier shall not qualify to enter Delhi even if they are Delhi bound. The State Governments and Union Territories were directed to evolve a suitable system for implementation of that direction. We are today informed by Mr. Salve that Ministry of Road Transport and Highways and the Transport Department in the NCT of Delhi are working out the modalities by which vehicles registered prior to 2006 (10 years older) could be identified and stopped from entering Delhi. Several options in that regard are according to Mr.

Salve being examined and that the EPCA has asked the concerned authorities to finalise the method urgently. We hope and trust that the directives issued by this Court are implemented at the earliest. We request the EPCA to pursue the matter further with the authorities concerned to ensure that the directions issued by us are implemented faithfully.

11. Mr. Kumar argued that several representations have been received by the Government of India from private commercial vehicle owners whose vehicles are more than 10 years old and cannot, therefore, be plied in Delhi. The representations, it appears, make a grievance against the NCT of Delhi which is refusing to issue "No Objection Certificate" (NOC) for sale of such vehicle to purchasers from outside Delhi/NCR. Mr. Rahul Mehra, Learned Counsel for the Government of NCT of Delhi, submits that NOCs are being refused to such vehicle owners on account of a restraint order passed by the National Green Tribunal (NGT) according to which no diesel vehicle older than 10 years and no petrol vehicle older than 15 years can be given a "No Objection Certificate" (NOC) even for purposes of sale. This direction, it appears, has been questioned by the NCT of Delhi before the NGT itself but the matter is still pending. In the meantime, we see no reason why owners of diesel vehicle, older than 10 years in the National Capital Region, should not be permitted to apply for grant of NOC or obtain such a certificate for sale of such vehicles to purchasers outside NCR/Delhi. We accordingly direct that the Government of NCT of Delhi/statutory authorities concerned shall, on suitable applications made by the vehicle owners for grant of NOC, issue such certificate to enable the owners to sell the vehicles to purchasers outside NCR. We make it clear that this direction shall not prevent the NGT from examining in due course whether diesel vehicles older than 10 years could be registered outside NCR and if so subject to what conditions.

12. Mr. Salve also points out that there is typographical mistake in our Order dated 16th December, 2015 inasmuch as instead of "NCR" the expression "NCT" and instead of "31st March, 2016" expression "1st March, 2016" have been used in the second para at page No. 8 of that order. We had in the said paragraph directed all taxis including those operating under aggregators like OLA and UBER to be converted to C.N.G. not later than 31st March, 2016. We make it clear that the said direction will apply to all such taxis as are operating in the NCR and to be converted to C.N.G. but not later than 31st March, 2016. The expressions "NCT" and "1st March, 2016" shall accordingly stand replaced by "NCR" and "31st March, 2016".

13. Mr. Salve also pointed out that issue of availability of C.N.G. supply was raised before the EPCA in the meeting of the EPCA held on 19th December, 2015 in which it was pointed out by the States concerned that supply of C.N.G. in the NCR is not a problem and that Ministry of Petroleum and Natural Gas was taking steps to provide 104 additional C.N.G. stations in the 10 districts by creating C.N.G. Stations in the said districts by 31st March, 2016. We accordingly request

EPCA to pursue the matter further to ensure that setting up of 104 additional C.N.G. stations in the 10 districts of NCR by 31st March, 2016 becomes a reality and supply network in the districts where there is no supply currently, is also suitably established.

14. Mr. Salve also pointed out that by our Order dated 27th July, 1998 M.C. Mehta v. Union of India and Ors. - (, 1998 (6) SCC 63), this Court had directed the Government of NCT of Delhi to augment its bus fleet by raising the number of buses from 5,000 to 10,000 by April 2001. He submits that the Delhi Government does not appear to have taken any steps in that direction, with the result that public transport system within the National Capital Region remains poor causing inconvenience to the commuters. He prays for a direction to be issued to the Government of NCT of Delhi to comply with the direction already issued by this Court and to augment the bus fleet in all possible ways so that the travelling public is not inconvenienced.

15. Mr. Rahul Mehra, Learned Counsel appearing for the Government of NCT of Delhi, on the other hand submits that while some steps have already been taken by the Government for purchase of additional buses for use within NCR, a severe impediment in the process of augmentation of the bus fleet is caused by the lack of space for setting up bus depots. He points out that Delhi Development Authority (DDA) has already allotted a parcel of land measuring 70 acres, out of which possession of 45 acres remains to be delivered to the Government of NCT of Delhi. He prays for a direction to the DDA to deliver possession of the remaining 45 acres of land for use as bus depot.

16. The DDA is not a party to these proceedings, we therefore request Mr. Ranjit Kumar to take instructions whether the land in-question stands allotted and if so the reason for non-delivery of the entire extent of land to the State Government, as also the time-frame within which the DDA shall ensure delivery of remaining extent of land. Mr. Kumar assures us that the needful shall be done as expeditiously as possible.

17. Mr. Kumar shall also take instructions from Delhi Metro Rail Corporation (DMRC) as to its plan for augmenting rolling stock and increasing the frequency of the trains keeping in view the heavy rush which the Metro is experiencing on account of odd/even scheme formulated and enforced by the Government of NCT of Delhi and other directions issued by this Court.

18. Mr. Salve submits that at present Euro IV standard fuel is being used in Northern India and in 30 other cities in the country. He submits that the Government of India could be directed to make a disclosure whether the fuel of that standard can be made available throughout the country by 1st April, 2016. Mr. Ranjit Kumar, in reply, submits that according to his instructions BS-IV fuel will be available by 1st April, 2017, including for two wheelers. That submission is recorded. Mr. Salve has drawn our attention to a communication dated 22nd May, 2015 addressed to the Chairman, IOCL, and other oil companies pointing

out that the Ministry of Petroleum and Natural Gas is ready for switching over to BS-VI directly from BS-IV grade auto fuel w.e.f. 1st April, 2020. He submits that according to his instructions some of the car manufacturers are already manufacturing cars that are Euro VI compliant which is equivalent to BS-VI standard. He submits if the vehicles that are BS-VI compliant are being manufactured by some of the companies, there is no reason why the remaining companies cannot upgrade their products to comply with BS-VI standards. He prays for a direction to the Government of India to examine whether the date already fixed viz. 1st April, 2020 for making available BS-VI grade auto fuel, can be suitably advanced. We request Mr. Ranjit Kumar to take instructions on this aspect also.

19. Mr. Ranjit Kumar shall further take instructions from the Government of India, whether it is ready and willing to phase out, over a period of time, old vehicles running on diesel fuel and issue a direction to all other autonomous and statutory bodies controlled by it to do so.

20. Needful be done by the parties by Tuesday, the 20th January, 2016.

I.A. No. (s). 375, 376-377, 378-379, 380-381, 382, 385-386 in I.A. No. 365 in I.A. No. 345

21. Post on Tuesday, the 20th January, 2016.

I.As. No. 371 and 372

22. Heard Dr. J.N. Dubey, learned senior counsel appearing for the applicant(s).

23. Issue notice.

24. Mr. Rahul Mehra, Advocate, appears and accepts notice on behalf of Government of NCT of Delhi which has issued impugned notification. He shall take instruction and file its reply before Tuesday, the 20th January, 2016.

IAs. No. 383 and 384

25. Heard.

26. Issue notice.

27. Mr. Rahul Mehra, Advocate, appears and accepts notice on behalf of Government of NCT of Delhi who may file its reply before Tuesday, the 20th January, 2016.

Civil Appeal Diary No. 41690 of 2015

28. Learned Counsel for the Appellant seeks leave to withdraw this appeal with the liberty to intervene in W.P. (C) No. 13029 of 1985. Civil appeal is accordingly dismissed as withdrawn with the liberty prayed for.