
(2020) 03 MP CK 0126

In the Madhya Pradesh High Court

Case No : Writ Petition No. 5778 Of 2020

Rakesh Sharma & Others

APPELLANT

Vs

State Of M.P. & Others

RESPONDENT

Date of Decision : 17-03-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 03 MP CK 0126

Hon'ble Judges : Sheel Nagu, J;Rajeev Kumar Shrivastava, J

Bench : Division Bench

Advocate : Vivek Jain, Pratip Visoriya

Final Decision : Dismissed

Judgement

The instant petition filed u/Art. 226 of the Constitution seeks to challenge the legality and validity of the decision dated 16/12/2019 (P/1) taken by the Road Safety Committee inter alia deciding to implement the verdict of Apex Court dated 24/10/2018 in Writ Petition (Civil) No. 13029 of 1985 (M.C.Mehta Vs. Union of India & others) whereby the Apex Court by dealing with question as to whether Bhart Stage IV (BS-IV for short) compliant vehicles should be permitted to sold in India after 31/3/2020, passed the following order:-

"19. In view of the fact that these proceedings have been pending in court for a long time and also in view of the fact that it is because of orders of this Court that BSIV and now BSVI norms have been introduced from the dates which were not even thought of by the Government, we feel that we have to take suo moto notice of the Rules. At the outset, we may notice that subrule 21 of Rule 115 is very vague. It does not talk of sale of vehicles. It only mentions registration of vehicles and permits registration of vehicles conforming to BSIV norms up to 30.06.2020 and in case of categories M & N, up to 30.09.2020. This rule, in our view, is violative of Article 21 of the Constitution in as much as it extends time for registration of vehicles beyond 31.03.2020 and must be accordingly read down. Any extension of time in introducing the new norms which is not

absolutely necessary adversely impacts the health of the citizens and is, therefore, violative of Article 21 of the Constitution of India. This Rule goes against the spirit of all the orders passed earlier by this Court. In the month of March, 2017 we were dealing with a situation when BSIV norms were to be made effective throughout the country with effect from 01.04.2020 and this Court had directed that non BSIV compliant vehicles shall not be registered on or after 01.04.2017. The situation in the present case is totally different. 31.03.2020 is almost 1 ½ years away. There is sufficient time for the manufacturers to change over to the new system and, therefore, we see no reason why they should be given a window of three or six months for sale of accumulated vehicles. Every vehicle sold after the cutoff date of 01.04.2020 is bound to cause more pollution and, therefore, the manufacturers, in our considered view, cannot be permitted to sell any nonBSVI compliant vehicle on or after 01.04.2020. On the one hand, the Government has been proactive in spending huge amounts of money to move to the BSVI technology, but on the other hand, the automobile industry is coming up with a variety of untenable excuses just to delay the introduction of BS VI compliant vehicles by a few months. We, in our judgment dated 13.04.2017, had clearly held "when the health of millions of our countrymen is involved, notification relating to commercial activities ought not to be interpreted in a literal manner." We have to give a purposive interpretation to notifications specially those dealing with public health issues and even more so, when health not only of the citizens at present but also the citizens in the future is involved.

There is more than sufficient time for the manufacturers to manufacture BSVI compliant vehicles. They already have the technology to do so. The automobile industry must show the will, responsibility and urgency in this regard.

From the aforesaid it is evident that the verdict in the case of M.C.Mehta (supra) was rendered in large public interest for saving the environment from further degradation caused by automobile pollution.

The decision of the Road Safety Committee, which is the source of grievance, prohibits plying of all diesel engine tempo and auto within the municipal limits of Gwalior town.

The aforesaid decision by the Committee has been taken after keeping in view the request made by Tempo -Auto union for grant of some further time to comply with the directives of the Supreme Court. The Committee thus has taken the impugned decision on consensus arrived at between the parties (including petitioners) and has fixed 31/5/2020 as the date whereafter no diesel engine powered tempo/auto would be allowed to ply within the municipal limits of Gwalior. Pertinently the fixing of this date of 31/5/2020 was based on consent of all the stakeholders including the auto-Tempo owner association of which the petitioners herein are also members.

Learned counsel for petitioners has attempted to raise a number of legal issues including want of jurisdiction with the Road Safety Committee to take such a

decision and the wrong interpretation of the decision of M.C.Mehta case (supra) but this court is not inclined to go into the said contention as the impugned decision taken by the Road Safety Committee is with the consent of the union/ association of which the petitioners are also members and also that the said decision is in large public interest.

As such this court declines interference in the present case and dismisses the petition, sans cost.