

M.C. MEHTA Petitioner;

Versus

UNION OF INDIA AND OTHERS

[Matter regarding diesel emissions]

(DR A.S. ANAND, CJ. AND B.N. KIRPAL AND V.N. KHARE, JJ.)

Writ Petitions (C) No. 13029 of 1985 with No. 939 of 1996
and SLP (C) No. 13208 of 1998,

April 16, 1999

A. Environment Protection and Pollution Control-Air Pollution - Hazards of diesel emissions-Bhure Lal Committee report on air pollution caused by vehicular traffic submitted on 1-4-1999 indicating inter alia that (i) more than 90% of nitrogen oxide and respirable particulate matter (RSPM) are from vehicular exhaust over Delhi due to diesel emissions (ii) diesel particulate been designated toxic air contaminant which means that chronic exposure can lead to lung cancer-Considering the gravity of the situation and noting the effects of diesel exhaust on the health of citizens which of extremely serious nature, Additional Solicitor General directed to inform Supreme Court by affidavit of a responsible officer about the number of diesel and petrol-driven private vehicles, including 2 and 3 wheelers registered in NCR in 1997, 1998 and between 1-1-1999 to 31-3-1999-This information, held, necessary in order to decide whether registration of diesel vehicles should be suspended forthwith-Judicial Activism-Environmental pollution (Paras 1 and 2)

B. Environment Protection and Pollution Control-Air Pollution-Responsibility of manufacturers of diesel vehicles-Counsel for major automobile manufacturer directed to have its Research and Development wing examine possibilities of making modifications in vehicular exhaust systems in order to achieve Euro II or even stricter norms (Para 3)

C. Environment Protection and Pollution Control-Air Pollution - State authorities taken to task-MCD and Deputy Commissioner, Delhi Police (Traffic) directed to disclose why earlier directions issued by Supreme Court and in particular directions issued on 16-12-1997 [(1998) 1 SCC 676] have not been complied with so far (Para 7)

D. Constitution of India-Art. 21-Life, right to-Violated by chronic exposure to polluted air-Supreme Court taking serious note of carcinogenic effect of diesel exhaust-Right to life includes right to good health-Constitution of India, Art. 21-Health care (Para 1) A-M/21339/C

ORDER

1. Bhure Lal Committee has submitted its report dated 1-4-1999. A perusal of the report reveals that private (non-commercial) vehicles comprise 90% of the vehicles plying in Delhi. It is

estimated that more than 90% of the nitrogen oxide (NOx) and respirable particulate matter (RSPM) from vehicular exhaust over Delhi is due to diesel emissions. Impairment of visibility and haze-like conditions are also attributed to tiny suspended particulate matter in the air. Based on the report of its scientific panel, the California Air Resource Board formally designated diesel particulate as a toxic air contaminant on 27-8-1998 thereby declaring that it had potential to cause cancer. It was estimated that chronic exposure to such toxic air contaminant would lead to 300 additional cases of lung cancer per million people. It is indeed a matter of serious concern- the very right to life of the citizens is at stake.

2. It is noticed that more and more private vehicles (non-commercial) are turning to diesel as the fuel of choice primarily because of the price differential between diesel and petrol. On account of extensive use of diesel there is rise in environmental pollution at a phenomenal level in the National Capital Territory of Delhi. Learned amicus has filed an application seeking certain directions. One of the prayers made in the application is to direct the respondents "to forthwith suspend registration of diesel vehicles until further orders". Considering the gravity of the situation and taking note of effects of diesel exhaust on the health of the citizens which are of extremely serious nature, we direct the learned Additional Solicitor General to inform the Court, on an affidavit of a responsible officer, about the number of diesel and petrol-driven private vehicles registered in NCR in 1997 and in 1998. The affidavit should also disclose the number of registered private vehicles (both petrol and diesel separately) from 1-1-1999 to 31-3-1999. This information would be necessary to consider the grant of prayer made in the application filed by the learned amicus. The information with regard to the vehicles would, of course, include information with regard to two-wheelers and three-wheelers registered during the same period also. Their figures shall be given separately. (The affidavit shall be filed by the learned Additional Solicitor General at least two days prior to 29-4-1999, with an advance copy to the learned amicus.)

3. Mr F.S. Nariman, learned Senior Counsel appearing for one of the automobile manufacturers-TELCO-submits that without further improvement in the quality of diesel, it may not be possible to control fully the harmful emissions but that he would have it examined through the Research & Development (R&D) Wing of TELCO whether it is not possible to make certain modifications in the system of the vehicles to achieve Euro II or even stricter norms to get the best out of the vehicles operating on diesel by reduction of emission of sulphur content. It is submitted by him that TELCO has adopted some modifications and is also in the process of modifying the system further to achieve Euro II norms to reduce to some extent the harmful effects of diesel emission through diesel-operated vehicles. Mr Nariman shall have the matter examined and file a report in this Court.

4. A copy of the application filed by the learned amicus shall also be forwarded to Bhure Lal Committee to consider prayer 'C' made therein and advise the Court.

5. List on 29-4-1999 at 10.30 a.m.

6. Learned amicus has been supplied with copies of IA No. 33 filed on behalf of DTC seeking modification/clarification of directions dated 28-7-1998 and the application filed by the Union of India seeking extension of time for implementation of the directions given by this Court

regarding introduction of unleaded petrol in the country and conversion of old vehicles in Delhi to use CNG. Both these applications shall be listed on 29-4-1999 along with the main matter for orders.

7. Issue notice of the application (filed by Mr U.U. Lalit-Amicus Curiae) seeking certain directions to the Municipal Corporation of Delhi and the Deputy Commissioner, Delhi Police (Traffic). Mr R.K. Maheshwari and Mr S. Wasim A. Quadri, learned counsel accept notice on behalf of MCD and the Deputy Commissioner, Delhi Police (Traffic) respectively. They shall file their response to the application and shall also disclose as to why the earlier directions issued by this Court from time to time and in particular the directions issued on 16-12-1997 have not been complied with so far.

8. IAs Nos. 15, 16, 22, 28, 29 and 32 shall be listed after summer vacation, on a date to be fixed by the Registry in consultation with the learned amicus.