

ITEM NO.301+302+303

COURT NO.1

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. Nos. 376-377, 380-381, 382, 385-386, 390 in I.A Nos. 380-381, 423, 445-446 in Writ Petition(s) (Civil) No(s). 13029/1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For impleadment and modification/recall/clarification of order dated 16.12.2015, directions, permission to take on record additional documents and office report)

WITH

I.A Nos. 375, 387, 388-389, 399-400, 404, 405-406, 409-410, 411-412, 413-414, 415-416, 419-420, 421-422, 426-427, 428-429, 430-431, 435-436, 437-438, 452, 453, 461-462, 467-468 of 2016 in I.A. No. 365 in 345 in W.P.(C) No. 13029 of 1985

(For impleadment, appear and argue in person, directions, modification/clarification of courts order dated 16.12.2015 and office report)

I.A. No. 383-384, 394, 397-398, 402-403, 418, 455, 463-464, 466, 469 in I.A. No. 365 in 345 in W.P.(C) No. 13029 of 1985

(For intervention, directions, modification/clarification of court's order dated 9.10.2015 and 16.12.2015 and stay and office report)

I.A. Nos. 470 in I.A. Nos. 439-440 of 2016 in I.A. No. 365 in I.A. No. 345 in W.P.(C) No. 13029 of 1985

Date : 12/08/2016 These I.As. were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s):

Mr. Harish N.Salve, Sr. Adv. (A.C.)

Ms. Aparjita Singh. Adv. (A.C.)

Mr. Sidhartha Chowdhary, Adv. (A.C.)

Mr. A.D.N.Rao, Adv.

Petitioner in-person (NP)

For Respondent(s)
IA 376-377

Mr. Gopal Subramaniam, Sr. Adv.
Mr. Mohan Parasaran, Sr. Adv.
Mr. Anand S.Pathak, Adv.
Mr. Nikhil Nayyar, Adv.
Mr. Amit Kumar Mishra, Adv.
Mr. Akshat Hansaria, Adv.
Mr. N.Sai Vinod, Adv.
Mr. Akshay Puri, Adv.
Ms. Smiti Shah, Adv.
Mr. Divyanshu Rai, Adv.

Govt. of NCT
(I.A.467-468)

Mr. Ranjit Kumar, SG,
Ms. V.Mohana, Sr. Adv.
Ms. Meenakshi Grover, adv.
Mr. R.Balasubramanian, Adv.
Mr. Mohan Prasad Gupta, Adv.
Mr. D.S.Mahra, Adv.
Mr. Shadman Ali, Adv.
Mr. S.Wasim A.Qadri, Adv.
Mr. M.P.Gupta, Adv.
Mr. Wasim A.Qadri, Adv.
Mr. Vibhu Shankar Mishra, Adv.
Mr. Sarfaraz Ahmed Siddiqui, Adv.
Mr. Mukul Singh, Adv.

For R. No. 8
(SIAM)
IA 345&365

Dr. A.M.Singhvi, Sr. Adv.
Mr. Sandeep Narain, Adv.
Mr. Amit Bhandari, adv.
Mr. Avishkar Singhvi, Adv.
M/s. S.Narain & Co.

IA 445-446

Mr. P.V.Shetty, Sr. Adv.
Mr. Vipin Singhania, Adv.
Ms. Manjula Gupta, Adv.

IA 382 & 423
(Tata Motors)

Mr. Gopal Jain, Sr. Adv.
Mr. R.N.Karanjawala, Adv.
Ms. Nandini Gore, Adv.
Mr. Sandeep Narain, Adv.
Ms. Tahira Karanjawala, Adv.
Ms. Natasha Sehrawat, Adv.
Ms. Khushboo Bari, adv.
Mr. Mandeep Kalra, Adv.
Ms. Manik Karanjawala, Adv.
Mr. Siddharth Sharma, Adv.

IA 380-381 Mr. Gopal Jain, Sr. Adv.
Mr. Vijay K.Sondhi, Adv.
Ms. Cauveri Birbal, adv.
MS. Avantika, Adv.
MS. Divya Sharma, Adv.
MS. Sujeeta Srivastava, Adv.

IA 467-468 Mr. R.Balasubramanian, Adv.
(Delhi Prisons) Mr. Mohan Prasad Gupta, Adv.
Mr. D.S.Mahra, Adv.

IA 387 Mr. Anuj Berry, Adv.
Mr. Sourabh Rath, Adv.
Ms. Maneka Khanna, Adv.
Mr. S.S.Shroff, Adv.
M/s Suresh A. Shroff & Co.,Adv.

IA 461-462 Mr. Roshan Lal Goel, Adv.
Ms. Anju Gupta, Adv.
Mr. Sudhansu Palo, Adv

IA 375 Mr. Arvind P.Datar, Sr. Adv.
Mr. Anand Pathak, Adv.
Mr. Kunal Chatterji, adv.
Mr. Amit Mishra, Adv.
Mr. Akshat Hansaria, Adv.
MS. Hima Lawrence, adv.
Mr. Akshay Puri, Adv.

IA 469 Mr. Ashok K.Gupta, Sr. Adv.
Mr. Farrukh Rasheed, Adv.

IA 463,464,466 Mr. Mahabir Singh, Sr. Adv.
MS. Savita Devi, Adv.
MS. Mamta Rani, Adv.
Dr. Kailash Chand,Adv.

IA 397-398 Mr. Vikas Singh, Sr. Adv.
Mr. K.K.Tyagi, Adv.
Mr. Anoop Kumar, Adv.
Mr. Sarvam Ritam Khare,Adv.

IA 385-386 Mr. Kamaldeep Dayal, Adv.
Mr. Mahesh Agarwal, Adv.
MR. Rishi Agrawala, Adv.
Mr. Ankur Saigal, Adv.
Mr. Rishabh Parikh, Adv.
Mr. E. C. Agrawala,Adv.

NDMC

Mr. Ajay Bansal, Adv.
Mr. Gaurav Yadava, Adv.
Mr. Praveen Swarup, Adv.
Mr. Vijay Pratap Yadav, Adv.

For CPCB

Mr. Vijay Panjwani, Adv.

Mr. Shri Narain, Adv.

Mr. Kamlesh Prasanna Mookerjee, Adv.

Mr. Divyakant Lahoti, Adv.

Mr. Aruneshwar Gupta, Adv.

Mrs. Anil Katiyar, Adv.

Mr. Ashok Mathur, Adv.

Mr. Ajit Pudusery, Adv.

Ms. Bina Gupta, Adv.

Ms. Binu Tamta, Adv.

Mr. Ejaz Maqbool, Adv.

Mr. G. Prakash, Adv.

Ms. Hemantika Wahi, Adv.

Mr. K. K. Gupta, Adv.

Ms. Meenakshi Arora, Adv.

M/s Saharya & Co., Adv.

Mr. Pramod Dayal, Adv.

Mr. Parijat Sinha, Adv.

Mr. P. Parmeswaran, Adv.

Mr. Ravindra Bana, Adv.

Mr. R. P. Gupta, Adv.

Mr. Sushil Kumar Jain, Adv.

Ms. Sushma Suri, Adv.

Mr. Surya Kant, Adv.

Mr. S. K. Bhattacharya, Adv.
Mr. S. S. Shroff, Adv.
Mr. Tara Chandra Sharma, Adv.
Mr. T. V. Ratnam, Adv.
Mr. Umesh Kumar Khaitan, Adv.
Mr. Sandeep Narain, Adv.
Mr. K. R. Sasiprabhu, Adv.
Mr. Abhijat P. Medh, Adv.
Mr. Hardeep Singh Anand, Adv.
Mr. K. V. Mohan, Adv.
Mr. D. S. Mahra, Adv.
Mrs. B. Sunita Rao, Adv.
Mr. Ravindra Kumar, Adv.
Mr. V. K. Verma, Adv.
Mr. Annam D. N. Rao, Adv.
Mrs. K. Sarada Devi, Adv.
Mr. Rakesh K. Sharma, Adv.
Mr. Anil Kumar Jha, Adv.
Mr. Mukesh K. Giri, Adv.
Mr. Bimal Roy Jad, Adv.
Mr. Khwairakpam Nobin Singh, Adv.
Mr. Radha Shyam Jena, Adv.
Mr. Pradeep Kumar Bakshi, Adv.
Mr. Prashant Kumar, Adv.
Mr. Sanjay R. Hegde, Adv.
Mr. Pavan Kumar, Adv.

Dr. Monika Gusain,Adv.

M/s. Khaitan & Co.,Adv.

Mr. Chirag M. Shroff,Adv.

Mr. Balaji Srinivasan,Adv.

Mr. Samir Ali Khan,Adv.

M/s. M. V. Kini & Associates,Adv.

Mr. Rakesh Kumar,Adv.

Mr. Sanjay Kumar Visen,Adv.

Mr. Satya Mitra,Adv.

Mr. Anis Ahmed Khan,Adv.

Mr. B. Krishna Prasad,Adv.

UPON hearing the counsel the Court made the following
O R D E R

I.As No. 376-377, 380-381, 382, 390, 445-446, 375, 399-400:

By our Order dated 16.12.2015, we had while issuing several other directions forbidden registration of private cars and SUVs with an engine capacity of 2000 cc and above running on diesel fuel. That direction was initially effective up to 31.03.2016 but subsequently continued pending further orders. The position as on date is that registration of private cars and SUVs running on diesel fuel with an engine capacity of 2000 cc and above are not being registered in Delhi and NCR region. Several manufacturers of such cars and SUVs have however appeared and filed applications seeking impleadment and vacation of the said

direction.

We had at some length heard these applications and reserved pronouncement of orders on 04.07.2016. Mr. Mohan Parasaran, learned senior counsel appearing for applicant-Mercedes Benz, one of the manufacturers had in the intervening period mentioned the matter and offered to deposit 1% of the Ex-show room price of the 2000 cc and above diesel vehicles manufactured by his client towards environment protection charge and sought modification of the order so as to permit registration of such vehicles on deposit of the said amount. Mr. Parasarn was asked to file a suitable affidavit to that effect which has been filed.

M/s. Gopal Subramanian and Mohan Parasaran today appear to submit that Mercedes Benz shall have no objection and would indeed be willing without demur to deposit environment protection charge mentioned above equivalent to 1% of the Ex-show room price of the diesel vehicles manufactured by that company as a condition precedent for registration of such vehicles by the jurisdictional Registration Officers. They submit that the said amount could be used by the Government or by such other agency as this Court may identify for such purpose as the court may direct.

A similar offer has been made even by Toyota Kirolskar Private Limited who is also manufacturing diesel cars with the engine capacity of 2000 cc and above. Mr. P.V.Shetty, learned

senior counsel appearing on behalf of Galaxy Automobiles Private Company who happens to be a dealer in cars manufactured by Toyota Kirloskar Private Limited also makes a similar offer. Dr. A.M.Singhvi learned senior appearing for the Society of Indian Automobile Manufacturers (SIAM) however argued that while some of the members of the association may also be similarly willing to deposit environment protection charge mentioned above, the benefit of registration of their cars on payment of the charge @ 1% of the Ex-show room price should be available to such manufacturers and dealers also.

Mr. Harish N.Salve, learned Amicus Curiae argues that while the order passed by this Court could be suitably modified to permit registration of diesel cars/SUVs of 2000 cc capacity and above upon deposit of 1% of the Ex-show room price towards environment protection charge, the said requirement should be extended even to diesel cars with less than 2000 cc capacity. He argued that the deposit could be directed to be made in an account to be opened by the Central Pollution Control Board (CPCB) with a direction that the Registration Officers concerned shall register the vehicles offered for registration only upon satisfying himself about the deposit of the amount and not otherwise.

Insofar as the deposit to be made with the CPCB is concerned, we see no reason to decline the prayer. We accordingly direct that

the CPCB shall open a separate account in a Scheduled public sector bank to receive the amount representing 1% of the Ex-show room price of every diesel car that is sold by any manufacturer/dealer in Delhi and NCR region. The deposit of the amount alone shall entitle the manufacturer/dealer or the purchaser of the car to have the car registered within Delhi or NCR region. Our order dated 16.12.2015 shall to that extent stand modified. We, however, leave open the question whether cars less than the capacity of 2000 cc using diesel fuel should also be subjected to a similar charge. So also the question whether the rate of the charge ought to be limited 1% or raised is left open to be determined at an appropriate stage. We all the same make it clear that any such enhancement in the charge if so directed by the court would not have any retrospective effect.

With these observations and modification, I.As No. 376-377 and all connected I.As relevant to these aspect are disposed of.

I.As No. 461-462:

Learned counsel for the applicant submits that he is ready and willing to deposit 1% towards environment protection charge as directed in I.As. No. 376-377 for registration of diesel ambulance cars with engine capacity of 2000 cc. In that view I.As. No. 461-462 are also disposed off in similar terms.

I.As. No. 467-468:

For the reasons stated in the application, we permit registration of utility vehicles (garbage vehicles) of 2000 cc and above used by Prisons Department, Tihar. The registration shall be free from environment cess/charge on the same.

I.As No. 467-468 are accordingly allowed and disposed off.

I.As No. 463-464, 466 and Report with regard to installation of Radio Frequency Identification (RFID) for effective and credible ECC collection dated 10.08.2016:

Post on Monday i.e. 22.08.2016 at 1.30 P.M.

I.A. No. 383-384, 394, 397-398, 402-403, 418, 455, 466, 469 in I.A. No. 365 in 345 in W.P.(C) No. 13029 of 1985 and I.A. Nos. 470 in I.A. Nos. 439-440 of 2016 in I.A. No. 365 in I.A. No. 345 in W.P.(C) No. 13029 of 1985, I.A. No. 470 in I.A Nos. 439-440 of 2016 in I.A. No. 365 in I.A. No. 345 in W.P.(C) No. 13029 of 1985:

Post these I.As along with I.A.No. 345 and affidavit filed by Department of Heavy Industries and public Enterprises at an appropriate date.

(Shashi Sareen)
AR-cum-PS

(Veena Khera)
Court Master