

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**M.A. No. 583 of 2015
In
Original Application No. 237 (T_{HC}) of 2013**

IN THE MATTER OF:-

Court on its own Motion Vs. State of Himachal Pradesh & Ors.

**CORAM : HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**Present: Applicant in M.A.: Ms. Vibha Dutt Makhija, Sr. Adv., Mr. Rajesh Gupta, and Ms. Disha Vaish, Advs.
Respondent Nos. 1,3&6: Mr. Suryanaraya Singh, Addl. AG
Respondent No. 7: Ms. Panchajanya Batra Singh, Adv.
Mr. Ajit Pudussery and Ms. Shruti Sharma, Adv. for Gail Gas Ltd.**

Date and Remarks	Orders of the Tribunal
Item No. 06 May 29, 2015 ss	<p style="text-align: center;"><u>M.A. No. 583 of 2015</u></p> <p>Heard. Perused.</p> <p>This is an Application moved by the Taxi Operators Union and Luxury Coach Association for following reliefs:-</p> <p>(iii) Modify/re-consider Order dated 05.05.2015 and withdraw direction (c), (d), (e), (f) and (g) in Order dated 05.05.215 and/or modify the said directions after hearing the applications;</p> <p>(iv) Pass ad-interim ex-parte order thereby suspending and/or staying directions (c), (d), (e), (f) and (g) in Order dated 05.05.215 till the disposal of the present application;</p> <p>The Learned Counsel appearing for the Applicant however submits that consideration of prayer 3 would involve detailed scrutiny of the factual matrix that is involved in the present case. However, she submits that ad</p>

interim reliefs as prayed for may be granted at this juncture. We, therefore, restrict ourselves to prayer clause (iv) for grant of ad-interim relief today.

The Learned Counsel appearing on behalf of Applicant submits that she has legitimate grievances about directions (c), (d), (f) and (g) in order dated 05th May, 2015 passed for keeping in abeyance the ban on diesel and petrol vehicle imposed by virtue of order dated 06th February, 2014. She submits that the Applicant No. 1 Him Aanchal Taxi Operators Union have 1621 members, most of whom are running 1600 vehicles-predominantly diesel vehicles approximately. As regard the Applicant No. 2, she submits that it has 190 members running Mini-Cabs/Luxury Coaches each meant to commute six to ten passenger at a time. According to her all these taxis Mini-Cabs and Luxury coach operators are the residents of Manali and make living by conducting their business as taxi men or taxi Luxury Coach operators on seasonal basis in Manali and Rohtang Pass area. According to her, this restriction on number of vehicles has deleterious effects on the business of plying vehicles to-and-fro Rohtang Pass on daily basis for tourists which is the main stay for living of these persons.

She further submits that this is not an adversarial litigation and in that sense she has no quarrel with the premise that there is deposition of black carbon in snow at Rohtang Pass due to anthropogenic activity such as forest fire, vehicular emission etc

. However, she points out from the para 4 of the order dated 06th February, 2014 that there would be many reasons for deposition of back carbon in snow which

ultimately gives rise to adverse environmental impacts. It is for this reason she submits that only the vehicle operators may not be held responsible for contributing to back carbon menace, especially when they are found compliant on PUC check.

According to her, in the given circumstances there should be a relaxation in number of tourist vehicles visiting Rohtang Pass, and 2000 vehicles per day may be allowed to visit Rohtang Pass instead of 1000 vehicles per day for the tourism purposes. As regards the imposition of environmental compensation she submits that vehicles have already been taxed in terms of payment towards Green Tax fund and congestion charges as mentioned in order dated 06th February, 2015. Inviting our attention to the judgment of the Hon'ble Apex Court Municipal Corporation, Amritsar Vs. Senior Superintendent of Post Offices, Amritsar Division and Another, she submits that imposition of this Environmental compensation charges as per clause (f) (g) of the order dated 05th May, 2015 is not only inappropriate but illegal and the tourist vehicle passing PUC Check ought not to have been made to pay taxes for the alleged 'pollution' as such vehicles cannot be said to have contributed to the pollution. She also invites our attention to the order of the Hon'ble Apex Court staying the direction requiring compliance with BS-IV standards vide order dated 26th May, 2015 in Civil Appeal No. 4864/2015. According to her, once a vehicle passes PUC check it shall not be said to emit pollutants to the levels contributing to the pollution and as such no charge can be recovered from the vehicle towards the payment of compensation in respect of alleged pollution.

The Learned Counsel appearing on behalf of State submits that the state in light of the public demand is of the view that there should be relaxation in number of vehicles visiting Rohtang Pass every day as well as the payment to be made towards Environment compensation vide order dated 05th May, 2015 and 2000 tourist vehicles may be permitted to be passed through the check barrier on way to Rohtang Pass each day.

We have heard the parties at length. We do find from the reading of the order dated 06th February, 2014 that there is grave menace of black carbon adversely impacting the environment at Rohtang Pass in particular and environment generally world-wide as a result of such impact in terms of climate change etc. We have passed order dated 05th May, 2015 restricting number of vehicles, keeping in view the pollution load that the vehicles running on petrol and diesel would impose on already fragile environment at Rohtang Pass. We, therefore, do not find any reason to relax condition as regards the number of tourist vehicles allowed to pass everyday. However, we do find some legal issue worth considering in the submission made on behalf of the Learned Counsel appearing for Applicant in respect of the payment towards environmental compensation.

Hence, we pass the order staying the payment of environmental compensation vide clause (f) (g) of the order dated 05.05.2015 till the next date of hearing. However, there shall be pollution check of every vehicle as directed vide clause (b) of the aforesaid order.

List this case on 08th June, 2015.

.....,JM
(U.D. Salvi)

		<p>.....,JM (M.S. Nambiar)</p> <p>.....,EM (Dr. D. K. Agrawal)</p> <p>.....,EM (Prof. A.R. Yousuf)</p> <p>.....,EM (B.S. Sajwan)</p>
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