

ITEM NO.1

COURT NO.3

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

Writ Petition(s) (Civil) No(s). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(REPORT NO. 71 FILED BY EPCA REGARDING COMPREHENSIVE ACTION PLAN FOR AIR POLLUTION CONTROL AND REPORT NO.73 ON THE ASSESSMENT OF POLLUTION UNDER CONTROL (PUC) PROGRAMME IN DELHI AND NCR)

WITH

SMW(C) No. 1/2015 (PIL-W)

Date : 11-10-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

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

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

Mr. A.D.N. Rao, Adv. (A.C.) (NP)

Mr. Sidharth Chowdhury, Adv. (A.C.) (NP)

Petitioner-in-person

SMW(C) No.1/2015 Mr. Colin Gonsalves, Sr. Adv. (AC)

Mr. Choudhry Ali Zia Kabir, Adv.

For Respondent(s) Mr. Ranjit Kumar, SG
Mr. S. Wasim A. Qadri, Adv.
Mr. Saeed Qadri, Adv.
Mr. Sanjai Kumar Pathak, Adv.
Mr. G.S. Makker, AOR

Mr. Vijay Panjwani, AOR

Mr. Sanjay Kr. Visen, AOR
Dr. Monika Gusain, Adv.

Mr. Abhishek Choudhary, AOR

Ms. Ruchi Kohli, AOR

Mr. B.K. Prasad, AOR

Dr. A.M. Singhvi, Sr. Adv.

Mr. Sandeep Narain, Adv.

Ms. Anjali Agarwal, Adv.

Mr. Avishkar Singhvi, Adv.

for M/s. Narain & Co.

Mr. Ramesh Babu M.R., AOR

Mr. Sudhanshu Batra, Sr. Adv.

Mr. S.V. Abbas, Adv.

Mr. Rajesh Kumar Chaurasia, AOR

UPON hearing the counsel the Court made the following

O R D E R

Report No.71

Cause title of this matter be shown in the causelist and in the Record of Proceedings as follows:

M.C. Mehta

In Re: Report No.71 filed by EPCA.

This Report by EPCA dated 5th April, 2017 deals with the comprehensive action plan for air pollution control with the objective to meet ambient air quality standards in the NCT of Delhi and NCR.

A response has been filed to the Report by the Ministry of Environment, Forest and Climate Change, Government of India on or about 28th April, 2017. The said Ministry has offered its comments only with respect to some of the recommendations.

Presumably, the other recommendations are accepted by the Ministry of Environment, Forest and Climate Change.

As far as SIAM is concerned, they have some reservations with regard to recommendation No.2.2.1 and 2.2.2.

We have requested learned Solicitor General to prepare a chart indicating the recommendations made in the report by EPCA in one column and the response of the Ministry in the next column and finally the proposed directions that may be issued.

Learned Solicitor General says that he will prepare this table on or before 23rd October, 2017 and give it to learned *amicus curiae*. Learned *amicus curiae* will prepare his response and give it to the learned Solicitor General and learned counsel appearing on behalf of SIAM on or before 25th October, 2017.

List this Report for hearing on 27th October, 2017.

Report Nos.73 and 75

Cause title of this matter be shown in the causelist and in the Record of Proceedings as follows:

M.C. Mehta

In Re: Report Nos.73 and 75 filed by EPCA.

Report No.73 deals with the assessment of the Pollution Under Control Programme in Delhi and NCR and Report No.75 is a supplementary Report to Report No.73 on assessment of the Pollution Under Control Programme in Delhi and NCR.

We have dealt with issues arising out of these two

Reports in our order dated 10.08.2017. At that time the views of the Ministry and others were considered and appropriate orders passed.

There were only four issues that remained to be considered. These issues are as follows:

Sr. No.	Recommendations of EPCA	Response of the Ministry	Direction
2.5	Phase in big centralized emissions testing centres capable of conducting automatic and upgraded tests for commercial vehicles on a priority basis.	The Motor Vehicle Amendment Bill, 2017 proposes that the fitness of all transport vehicles after 1 st of October 2019 shall be granted after testing through an automated testing station authorized by the State Government.	This will be considered on a later occasion.

This will be considered on a later occasion.

Sr. No.	Recommendations of EPCA	Response of the Ministry	Direction
3.1	(i) Tighten the PUC emissions norms for pre-Bharat Stage IV vehicles; (ii) Overall emissions tests and tighten norms for diesel vehicles.	(i) The vehicles are manufactured to comply with a predefined emission standard. It is not possible for vehicle owners to improve the emission levels at a later stage. Bharat Stage IV vehicles are already mandated to meet stringent emission norms. (ii) Strengthening of PUC certification process is expected to ensure better compliance.	This will be considered on a later occasion.

The suggestion given by the Ministry of Environment, Forest and Climate Change is now accepted by EPCA.

Since the PUC emission norms for pre-Bharat Stage IV vehicles might need to be reconsidered as well as emission tests for diesel vehicles might need to be reconsidered, it is agreed by learned *amicus curiae* as well as by learned Solicitor General that it might be appropriate if the matter is referred to the Automotive Research Association of India in Pune to advise this Court on tightening of the pollution norms both for pre-Bharat Stage IV vehicles as well as for diesel vehicles. The report may be given to EPCA within eight weeks.

Sr. No.	Recommendations of EPCA	Response of the Ministry	Direction
3.4	Integrate On Board Diagnostics (OBD) with inspection and maintenance programme	Present PUC test procedure as per Rule 115 of Central Motor Vehicles Rules, 1989 specifies verification of a malfunction indication lamp (MIL) of OBD before carrying out PUC test. If MIL is 'ON' i.e. there is engine/ emission system fault, then the vehicle owner is required to get the vehicle serviced at the service centre for rectification of the fault. A detailed analysis of the OBD fault will be carried out using scanning tool at the service centre.	Learned <i>Amicus</i> says that EPCA would like to reconsider this.

The submission of learned *amicus curiae* in this regard is that hand-held scanners are now available for carrying out this activity.

Learned Solicitor General says that he would like to take instructions with regard to the use of scanners through a graded utilization and installation in different parts of the country, i.e., first in Grade A, then in Grade B and then Grade C and finally Grade D cities respectively.

Sr. No.	Recommendations of EPCA	Response of the Ministry	Direction
3.5	Detail out the strategy for advanced real driving emissions monitoring of new generation vehicles to come with BSVI emissions standards in 2020	Real driving emission measurements is a detailed and comprehensive emission measurement process and is slated for implementation along with BS VI norms from 2020 at the time of new model type approval. Further, verification of real driving performance of vehicles at the time of conformity of production test will be carried out.	This will be considered on a later occasion.

The view expressed by EPCA has now been accepted by the Ministry of Road Transport and Highways.

The only issue that, therefore, remains to be considered is with regard to 3.4 and to await the views of the Automative Research Association of India in Pune on issue No.3.1.

List the Report Nos.73 and 75 on 27th October, 2017.

IA No.100997/2017

Application is dismissed.

IA Nos.100541 and 100543 of 2017

Applications are dismissed.

SMW(C) No. 1/2015

Detag from WP(C) No.13029 of 1985.

Mr. W.A. Qadri, learned counsel appearing on behalf of NCT of Delhi says that the affidavit is ready and will be filed within a week.

List the matter on 1st November, 2017.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER