

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE**

**M.A. NO.140/2015, M.A. No.144/2015 &  
M.A. No.239/2015**

**In  
APPLICATION No.27/2015 (WZ)**

**CORAM:**

**Hon'ble Shri Justice U.D. Salvi  
(Judicial Member)**

**Hon'ble Dr. Ajay A. Deshpande  
(Expert Member)**

**B E T W E E N:**

**DILEEP B. NEVATIA**

Shashi Deep, 5-A, Worli Sea Face,  
Mumbai – 400 030

**.....Applicant**

**Versus**

**1. Union of India**

Through the Secretary,  
Ministry of Environment and Forests  
Indira Paryavaran Bhavan, Jog Bagh,  
New Delhi 110 003.

**2. Ministry of Petroleum & Natural  
Gas**

Through the Secretary  
Shastri Bhavan, New Delhi 110 001.

**3. Ministry of Road Transport &  
Highways**

Through the Secretary  
Transport Bhavan, 1, Parliament  
Street, New Delhi 110 001.

**4. Central Pollution Control Board**

Through the Member Secretary  
Parivesh Bhavan, CBD cum Office  
Complex, East Arjun Nagar, New  
Delhi – 110 032.

**5. Reliance Industries Limited**

Through its Managing Director  
Maker Chambers IV, Nariman Point  
Mumbai 400 021.

**6. ESSAR Oil Limited**

Through its Managing Director  
Essar House  
11, KeshavraoKhadyeMarg  
Mahalaxmi, Mumbai 400 034.

**7. Society of Indian Automobile  
Manufacturers**

Through its Managing Director  
Core 4-B, Fifth Floor  
Indian Habitat Centre  
Lodhi Road, New Delhi 110 003.

**.....Respondents**

**Counsel for Applicant :**

Applicant in person

**Counsel for Respondents :**

Mr. K.D. Ratnaparkhi, Advocate for Respondent No.2

Ms. Manda Gaikwad, Advocate for Respondent No.4

Mr. T.N. Subramanian Sr.Advocate, Mr. Rubin Vakil,  
Advocate, Mr. R.P. Badiani, Advocate i/b A.S. Dayal &  
Associates for Respondent No.5

Mrs. Supriya Dangare, Advocate for Respondent No.6

Mr. Sandeep Narain, Sr.Advocate, Mr. Shyam Taori,  
Advocate, Mr. Swapnil Bedse, Advocate for Respondent  
No.7

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**Date:8<sup>th</sup> August, 2016**

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**ORDER**

- 1.** The original Application No.27/2015 is filed by Shri Dilip Nevatia against the alleged violation of the provisions of the Air (Prevention Control of Pollution) Act, 1981 (hereinafter referred as 'Air Act, 1981') and

Environmental (Protection) Act, 1986, caused due to the poor quality of gasoline or diesel supplied by the refineries and the consequent discharge of harmful pollutants by the vehicles, D.G. sets etc. using such gasoline or diesel supplies, thereby adversely affecting the health of the people all over the country.

**2.** Respondent Nos.5, 6 & 7 have filed preliminary objections through M.A. No.140/2015, M.A. No.144/2015 and M.A. No.239/2015 respectively to the maintainability of the original application. Many of the grounds raised by the Respondents in the Miscellaneous Applications are overlapping or linked to each other and therefore, by consent of the parties, all these three Miscellaneous Applications were heard together for common decision.

**3.** The Respondent No.5 filed written submissions and contended that the Original Application No.27/2015 is not maintainable on following grounds, which are taken without prejudice to one another and in the alternative:

- (a) No cause of action. It is contended that O.A. No.9/2015 was filed by the Original Applicant which was disposed of by the Tribunal on 19<sup>th</sup> January, 2015 recording that the Application does not indicate substantial dispute as required within the ambit of Section 14(1) of

the National Green Tribunal Act, 2010 (hereinafter referred as 'NGT Act'). Subsequently, Original Applicant addressed certain communications dated 27<sup>th</sup> January, 2015 to the Respondent Authorities and the Original Applicant has now made a grievance in the present Application that the Authorities have not responded to his communication. The Respondent No.5 submits that the Authorities have duly responded to the representations made by the Original Applicant and, therefore, the O.A. does not disclose any cause of action and, therefore, the O.A. is ought to be dismissed.

- (b) Another contention raised by the Respondent No.5 is that there is no dispute or substantial question of law relating to environment involved in the present matter. It is submitted that the Application do not raise any substantial question relating to environment arising out of implementation of any of the enactment specified in Schedule I to the NGT Act, 2010 and, therefore, the Tribunal cannot entertain such Application which raise the

issue which are essentially related to other Acts.

- (c) The Respondent No.5 contends that Writ Petition (C) No.13029 of 1985 was filed in the Hon'ble Supreme Court, inter alia, for various reliefs to secure reduction in air pollution. The Hon'ble Supreme Court was pleased to pass various directions to the concerned authorities to take appropriate measures to reduce air pollution from time to time. Respondent No.5 further contends that Environmental Pollution (Prevention and Control) Authority (hereinafter called EPCA) for the National Capital Region has filed a 'Report on priority measures to reduce air pollution and protect public health' before the Hon'ble Supreme Court seeking various directions which inter alia includes, acceleration of implementation of BS-IV, BS-V and BS-VI emission norms across the country. Respondent No.5, therefore, submits that the issues raised in the Application are squarely been raised before the Hon'ble Supreme Court which is seized of the matter and therefore, the OA needs to be dismissed in keeping with the well-established principles of judicial discipline.

(d) The Respondent No.5 contends that the reliefs sought in the Application are in respect of entire territory of India and, therefore, this Tribunal which is exercising jurisdiction only over limited area of the country cannot exercise its jurisdiction to grant any of the reliefs prayed for in the said O.A.

(e) The Respondent No.5 states that prayers sought in the Application if are to be considered, will also involve issues related to various enactments, statutes like Motor Vehicles Act, 1988; SEZ Act, 2005, Essential Commodities Act, etc., which are not part of Schedule I of the NGT Act and are thus beyond the purview of the jurisdiction of this Tribunal. It is further submitted that it is trite law that the jurisdiction of this Tribunal, being a creature by a statute, is subject to the limitations imposed upon this Tribunal under the provisions of the statute by which it has been created **[Mohammed Hasnuddin Vs. State of Maharashtra (1979) 2 SCC 572]**.

(f) The Respondent No.5 further submits that the reliefs claimed in the said O.A., if granted, would violate the provisions of various statutes

and the rights granted and enshrined under the said statutes.

- (g) The chief bone of contention of Respondent No.5 is that the prayers and reliefs claimed in the O.A. are in the nature of framing and/or implementation of policies which is within the exclusive domain of the Executive and, therefore, the reliefs claimed are contrary to the principles of separation of powers enshrined in the Constitution of India. It is further submitted that the nature of the reliefs claimed would even fall well beyond the wide and untrammelled writ jurisdiction of the Courts. It is further submitted that it is a settled principle of law, through numerous judicial pronouncements that reiterate the celebrated rule of non-intervention in the policy matters except in cases of arbitrariness or violation of fundamental rights. [***State of Punjab Vs. Ram Lubhaya Bagga and Ors (1998) 4 SCC 117, State of Madhya Pradesh vs. Narmada BachaoAndolan and Ors. (2011) 7 SCC 639, Kuchchh Jal Sankat Nivaran Samiti and Ors. Vs. State of Gujarat and Anr. (2013) 12 SCC 226***]

(h) The Respondent No.5 further states that the O.A. is not maintainable for non-joinder of the necessary parties. It is submitted that Public Sector Oil Marketing Companies and Joint Sector Refineries which are essential parties to the said Application have not been joined in the O.A. Further, these parties who have not been joined in the O.A. are the major manufacturer and supplier of the fuel in question and therefore, any relief cannot be granted without hearing them.

4. Learned Senior Counsel Mr. Subramanian appearing on behalf of Respondent No.5 extensively argued on the above points. He submitted that the prayer No.(i) of the O.A. does not fall within the ambit of Section 14 of the NGT Act, 2010 being a policy matter and further the Tribunal with the limited jurisdiction cannot have all India jurisdiction issuing or granting such Pan India relief. The Prayer (iv) cannot be considered by the Tribunal as the necessary parties are not joined and the non-joinder of such essential parties can itself be a sufficient cause for dismissal of the O.A. He points out that the Applicant originally filed Application No.9/2015 which was disposed of on 19<sup>th</sup> January, 2015 with certain

orders. He submits that the Applicant made  
*Order(M.A. No.140/2015, M.A. No.144/2015 &  
M.A. No.239/2015 in Application No. 27/2015)*

representations to the Authorities on 27<sup>th</sup> January, 2015 and claimed that the Authorities have not responded to his representations. He submits that the non-reply by the authorities cannot be the cause of action for the instant case as both the authorities i.e. Central Pollution Control Board (CPCB) and Ministry of Petroleum and Natural Gas (MoPNG) have duly responded to the Applicant on his communication. Learned Senior Counsel further submits that the issue involved is complex policy issue and Government of India had framed an Expert Committee which has submitted a Report titled as 'Auto Fuel Vision & Policy 2025', May, 2014 that is already placed on record by the Applicant, itself indicate that this is a policy matter involving various stake-holders and having large scale economic and logistic implications. He further states that the Authorities are fully aware of the issues raised by the Applicant and have already framed such a policy through the said Expert Committee Report. He further contends that earlier also somewhere in 2003, one Expert Committee was appointed by the Government of India on these issues and based on its recommendations, the Road Map for Auto Fuel Policy in the country was outlined. He submits that both these Committees comprised of highly renowned and qualified experts of various multi-disciplinary subjects involved in the matter and the

findings and the conclusions of such reports cannot be questioned. He further contends that in any case the Applicant has not raised any challenge on merits of the Expert Committee Report and the policy, necessitating the pre-poning of BS-VI roll-out as prayed for.

5. Learned Senior Counsel Mr. Sandeep Narain appearing on behalf of Respondent No.7 pointed out that the Government is aware and apprised of the issues raised in the Application and relied on the Minutes of the Meeting dated 6<sup>th</sup> April, 2015 held under the Chairmanship of Secretary (RT&H) to discuss the issues raised by EPCA in IA No.345 in Writ Petition (Civil) No.13029 of 1985 and the steps to be taken in the event of leap-frogging from BS-IV to BS-VI for four wheelers. He pointed out that after detailed elaboration a Road Map was finalised which is as under:

**“9. After detailed discussion, Secretary, RT&H summarized those BS-IV emission norms for four wheelers shall be –North India by October, 2015, South India by April 2016 and all India by April, 2017. BS-V and BS-VI Emission norms for four wheelers shall be implemented from the year 2019 and 2023 respectively, which has been advanced by one year from the recommendations of AFVP 2025. For this, BS-V/VI fuel specification will have to be made available across the country from the year 2019 onwards.”**

**6.** He further contended that the EPCA is also considering such roll-out of BS-VI vehicles and assured supply of compatible fuel in its Report of November, 2014, to advance stringent emission standards for urgent action on air pollution in Delhi and other cities wherein the EPCA has recommended following:

(i) The entire country should move to Euro IV (BS-IV) by 2015.

(ii) The entire country should move to Euro V (BS-V) by 2017.

(iii) The entire country should move to Euro VI (BS-VI) by 2020.

**7.** He further submits that this report of EPCA was placed before the Apex Court in its Order dated 28<sup>th</sup> November, 2014. The Apex Court has taken this report on the record and the ASG was requested to persuade the concerned persons in the Government to look into the matter and see if it is possible to be implemented without the orders being passed by the Court. He further submits that the entire issue of leap-frogging from BS-IV to BS-VI is before the Hon'ble Supreme Court of India and even Hon'ble Supreme Court of India thought it necessary to ask the State to consider such proposals. He submits that such a direction of the Hon'ble Apex Court itself indicates that this is a policy issue and needs to be handled by the Executive within its Executive domain. Learned Senior

Counsel appearing for Respondent No.7 further submits

that the fuel emission norms and the dates of implementation of such emission norms are governed by the Motor Vehicles Act and, therefore, cannot be adjudicated under Section 14 of the NGT Act. It is further submitted that neither does the Environment (Protection) Act, 1986 nor the Air Act, 1981, have any provision under which standards for auto fuel or automobile emissions can be fixed or the dates of implementation of such fuel emission norms can be decided and, therefore, the National Green Tribunal cannot have jurisdiction to entertain the alleged dispute. He further contended that the CPCB under the provisions of Section 16(2)(h) of the Air Act, 1981 can only fix standards for the quality of air and not standards of fuel emissions by vehicles and, therefore, what can be monitored under the Air Act, 1981 would be quality of air(ambient) and not quality of fuel used by the vehicles or the emissions caused due to automobiles and, therefore, the Air Act cannot be invoked in the present Application.

**8.** Learned Senior Counsel appearing on behalf of Respondent No.7 further states that the Government of India is already apprised of the issues raised in the Application and has already issued a Draft Notification on 27<sup>th</sup> November, 2015 wherein the mass emission

standards for BS-V norms for category M&N vehicles are  
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to be implemented by 1<sup>st</sup> April, 2019. The mass emission standards for BS-VI in respect of M&N category vehicles are to be implemented on or after 1<sup>st</sup> April, 2021. He, therefore, submits that the Government is already apprised of the matter and has already issued a Draft Notification to pre-pone the schedule date of implementation of BS-V and BS-VI emission norms and, therefore, the Applicant cannot take a plea that the Authorities have not responded to such issues which are raised by him in the Application. At the most, he can always give his suggestions or objections to the Draft Notification issued by the Government by giving all the supporting information and documents.

**9.** Learned Senior Counsel Shri Subramanian appearing on behalf of Respondent No.5 submitted the Respondent No.5 is an Oil Refinery operating in SEZ Area and therefore, has certain obligations to perform under SEZ Act, 2005, particularly, Section 3 and 5 of the SEZ Act, 2005. He, therefore, contends that the Tribunal cannot grant any relief which will force the Respondents to violate other statutory laws/enactments. He further submits that though the refinery is producing BS-VI fuel as on today but the entire quantity is exported as per obligations of the SEZ Act. He further submits that certain

financial benefits in terms of exemption of taxes are given  
*Order(M.A. No.140/2015, M.A. No.144/2015 &  
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to the Respondents on compliance of their obligations under the SEZ Act. He, therefore, contends that the reliefs claimed in the OA are complex policy issue involving various stake-holders like Petroleum industry, Ministry of Road and Transport, Environment Department, Finance Department, etc and will also have specific issues like technology, economics of roll out, change in management strategies, and such complex issues need to be addressed by the said Authorities through the aid and advise of the experts to get realistic time frame for such change. He, therefore, submits that the said process has already been adopted by the Government by forming the Expert Committee which has gone into the important aspects of such Auto Fuel Vision & Policy 2025 and has prepared a road map which is a realistic one. He, therefore, contends that the Courts should not intervene in such complex policy issues, particularly, when the Applicant has not challenged the policy on merits and has alternative remedy to file his objections/suggestions to the Draft Notification issued by the Government of India on 27<sup>th</sup> November, 2015.

**10.** The Respondent No.6 adopted the arguments of Respondent No.5 and Respondent No.7.

**11.** The Applicant has filed reply to the Miscellaneous Applications filed by Respondent Nos.5, 6 & 7. The main contention of the Applicant is that the National Ambient Air Quality Standards (NAAQS) have been notified by Government of India under the provisions of the Air Act, 1981 on 16<sup>th</sup> November, 2009. He submits that under the provisions of the Air Act he is legally entitled to the said quality of ambient air throughout the country and it is his legal right created by notification of NAAQS to get said ambient air quality. He submits that present information on the ambient air quality status in the country clearly reveals that the ambient air quality standards are violated in most part of the country. He also relied upon the Source Apportionment Study conducted by CPCB which highlighted the significant contribution of the vehicles in the overall particulate emissions. He, therefore, contends that it is the responsibility of Respondent No.4 CPCB and Respondent No.1 MoEF &CC to ensure that the ambient air quality throughout the country is well within the limits as specified by NAAQS. He contends that the fundamental dispute raised by his Application is that the NAAQS is not being complied with and the Authorities are not taking any corrective actions to ensure that ambient air quality is within the NAAQS standards or limits. He submits that even today, the BS-

VI fuel as well as the automobiles are manufactured in India and most of the automobile manufacturers are world leaders in the automotive sector who already have BS-VI technology which can be rolled out in the country without much delay. He, therefore, contends that the automobiles, being identified as one of the major contributors to the ambient air quality deterioration, need to be effectively regulated for control of its exhaust emission by the regulators and that is the dispute he has raised before the Tribunal.

**12.** He further submits that Writ Petition (Civil) No.13029/1985 filed before the Hon'ble Supreme Court is mainly related to the air pollution in the NCR Region and therefore, the Respondents cannot take a plea that the reliefs claimed herein cannot be dealt by this Tribunal particularly when the Respondents have not placed the said pleadings which are relied upon by them before the Tribunal. The Respondents should have placed those pleadings before the Tribunal to substantiate their claim and in the absence of such pleadings; the Tribunal need not entertain such objection.

**13.** He further submits that the Authorities have wide power under Section 5 of the Environment (Protection) Act, 1986 and Section 31A of the Air Act,

1981 to issue suitable directions and ensure its compliance, He, therefore, submits that the present Application definitely raises a substantial environmental dispute as contemplated under Section 14(1) of the NGT Act, in terms of enforcement of his legal right to avail the ambient air quality as per NAAQS notified under the Air Act, 1981 and besides that the cause of action has arisen because the Authorities of CPCB and MoEF have failed to implement such NAAQS, in terms of powers conferred upon them under Section 5 of the Environment (Protection) Act, 1986 and Section 31A of the Air Act, 1981. He further submits that the question of violation of SEZ Act is not relevant as, in any case, the Respondent No.5 is already manufacturing BS-VI compliant fuel and both Respondent Nos.5 and 7 are already selling other products such as petroleum, diesel manufactured at their Refineries located in SEZ in Indian market, after paying necessary taxes and duties and, therefore, their claim of violation of SEZ Act cannot be countenanced on the above facts. He, therefore, contends that there is a substantial dispute relating to environment arisen due to non-enforcement of NAAQS regarding ambient air quality and alleged inaction by the authorities to initiate action under environmental regulations and the Tribunal needs to dismiss these MA's and consider the O.A. on merits.

**14.** In view of the pleadings, documents on record and submissions made by the Respondents following issues arise which require adjudication by this Tribunal for the effectual disposal of the present M.As:

**(1)** Whether the reliefs claimed and the issues raised by the Applicant constitute a dispute raising a substantial question relating to environment including enforcement of any legal right relating to environment as per Section 14 of the NGT Act?

**(2)** Whether any cause of action for filing the application arose and the Applicant has locus to file such Application under provisions of NGT Act?

**(3)** Whether this Tribunal cannot deal with substantial question relation to environment on account of obligations of fuel manufacturing companies under SEZ Act, 2005?

**(4)** Whether the Application is not tenable in view of non-joinder of the Public and Joint Sector Oil Refineries?

**(5)** Whether the Western Zone Bench of National Green Tribunal has a jurisdiction to deal with the reliefs claimed which have pan India application?

**(6)** Whether the Hon'ble Supreme Court of India is seized of the issues before us in the Writ Petition (Civil) No. 13029/1985.

**(7)** What order?

**Issue Nos.(1) & (2)**

**15.** Before entering into the intricacies of various issues mentioned above, it will be proper to set out the legal provisions as provided under the Environment (Protection) Act, 1986 and Air Act, 1981 governing the ambient air quality and emission standards. The National Ambient Air Quality Standards (NAAQS) have been

notified by the Central Pollution Control Board on 18<sup>th</sup> November, 2009 in exercise of its power conferred under Section 16(2)(h) of the Air Act, 1981 thereby stipulating the ambient air quality standards which are expected to be achieved throughout the country, as applicable for two distinct types of land uses i.e. (i) Industrial, Residential, Rural and other areas, (ii) Ecologically Sensitive Area (as notified by Central Government). These standards are reproduced below for reference:

#### NATIONAL AMBIENT AIR QUALITY STANDARDS

Sl. No	Pollutant	Time Weighted Average	New Standards (Schedule VII, Rule 3 (3B) 16 <sup>th</sup> Nov 2009)		Methods of measurement
			Concentration in ambient air		
			Industrial Area Residential, Rural & other Areas	Ecologically sensitive area (Notified by Central Govt)	
1	2	3	4	5	6
1	Sulphur Dioxide (SO <sub>2</sub> ), ug/m <sup>3</sup>	Annual* 24 hours**	50 80	20 80	-Improved West and Gaeke method - Ultraviolet fluorescence
2	Nitrogen Dioxide (NO <sub>2</sub> ), ug/m <sup>3</sup>	Annual* 24 hours**	40 80	30 80	-Modified Jacob & Hochheiser (Na-Arsenite) -Chemiluminescence
3	Particulate Matter (size less than 10 um) or PM <sub>10</sub> ug/m <sup>3</sup>	Annual* 24 hours**	60 100	60 100	-Gravimetric -TOEM -Beta attenuation
4	Particulate Matter (size less	Annual* 24 hours**	40 60	40 60	-Gravimetric -TOEM -Beta attenuation

	than 2.5 um) or PM <sub>2.5</sub> ug/m <sup>3</sup>				
5.	Ozone (O <sub>3</sub> ) ug/m <sup>3</sup>	8 hours** 1 hours**	100 180	100 180	-Photometric - Chemiluminescence - Chemical Method
6	Lead (Pb)ug/m <sup>3</sup>	Annual* 24 hours**	0.50 1.0	0.50 1.0	-AAS/ICP method for sampling on EPM2000 or equivalent filterpaper -ED-XRF using Teflon filterpaper
7	Carbon Monoxide (CO)ug/m <sup>3</sup>	8 hours** 1 hours**	2 4	2 4	-Non Dispersive Infra Red (NDIR)spectroscopy
8	Ammonia (NH <sub>3</sub> )ug/m <sup>3</sup>	Annual* 24 hours**	100 400	100 400	-Chemiluminescence - Indo-Phenol Blue method
9	Benzene (C <sub>6</sub> H <sub>6</sub> )ug/m <sup>3</sup>	Annual*	5	5	-Gas Chromatography based continuous analyzer Adsorption/desorption followed by GC analysis
10	Benzo(a)Pyrene (BaP) – particulate phase only ng/m <sup>3</sup>	Annual *	1	1	-Solvent extraction followed by HPLC/GC analysis
11	Arsenic	Annual*	6	6	-AAS/ICP method for sampling on EPM2000 or equivalent filterpaper
12	Nickel (Ni),ng/m <sup>3</sup>	Annual*	20	20	-AAS/ICP method for sampling on EPM2000 or equivalent filter paper

**16.** Section 3 of the Environment (Protection) Act, 1986 gives power to the Central Government to take measures to protect and improve the environment. Section 3(2)(iii) and (iv) empowers the Central Government to specify the emission standards. The provisions are reproduced below:-

**“3. Power of Central Government to take measures to protect and environment.-(1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient**

for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely:-

- (i) Co-ordination of actions by the State Governments, officers and other authorities –
  - (a) Under this Act, or the rules made thereunder; or
  - (b) Under any other law for the time being in force which is relatable to the objects of this Act;
- (ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;
- (iii) laying down standards for the quality of environment in its various aspects;
- (vi) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever:

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;
- (v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;
- (vi) .....

**17.** Similarly the Air Act, 1981 empower the State Pollution Control Boards under Section 17(g) to lay down the emission standards. The provision is reproduced below:

**“17. Function of State Boards. - .....**

- (g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the

atmosphere from any other source whatsoever not being a ship or an aircraft:

*Provided that different standards for emission may be laid down under this clause for different industrial plants having regard to the quantity and composition of emission of air pollutants into the atmosphere from such industrial plants;”*

**18.** Further Section 20 of the Air Act, 1981 gives power to give instructions for ensuring standards for emission from automobiles. Section 20 is reproduced below:

**“20. Power to give instructions for ensuring standards for emission from automobiles. –** With a view to ensuring that the standards for emission of air pollutants from automobiles laid down by the State Board under clause (g) of subsection (1) of Section 17 are complied with, the State Government shall, in consultation with the State Board, give such instructions as may be deemed necessary to the concerned authority in charge of registration of motor vehicles under the Motor Vehicles Act, 1939 (4 of 1939), and such authority shall, notwithstanding anything contained in that Act or the rules made thereunder be bound to comply with such instructions.”

**19.** The MoEF in exercise of its powers under the Environment (Protection) Act, 1986 has already notified standards for emission or discharge of environmental pollutants from the motor vehicles under Rule 3 [Schedule IV] of the Environment (Protection) Rules, 1986. These emission standards are related to Mass Emission Standards For Petrol Driven Vehicles (Annexure I), Reference for Type and Production Conformity Tests (Annexure III) and Limit Values of Exhaust Gas Opacity Applicable For Diesel Driven Vehicles (Annexure IV).

**20.** We would also like to place on record certain facts which have been admitted by the rival parties:

(i) There is a serious problem of air pollution particularly posed in many of the cities and urban areas of the country.

(ii) There is urgent need to take effective steps to control such urban air pollution in view of the serious health impacts of such air pollution.

(iii) BS-VI automotive technology and fuel is superior and environmental friendly than BS-IV automotive technology and fuel.

**21.** With these premises, the Applicant argues that the NAAQS as defined under the provisions of the Air Act, 1981, confers the legal right upon the citizens in order to get a good air quality for breathing. He further submits that it is already well established by various judicial pronouncements that right of have a clean environment is fundamental right under Article 21 of the Constitution and the good environment comprises of good air to breathe. He further submits that the Authorities i.e. CPCB and MoEF are required to take necessary steps and actions as per Section 3 and Section 16 of the Environment (Protection) Act, 1986 and Air Act, 1981, respectively in order to ensure that the ambient air

quality is well within the NAAQS. According to him, the inaction of these Authorities to take timely effective measures to ensure compliance of NAAQS leads to deterioration of the air quality, and as a citizen affected by such air quality due to inaction leading to violation of NAAQS, he is an aggrieved person under Section 18 of the NGT Act for whom cause of action arises for filing the present application.

**22.** Learned Senior Counsel appearing on behalf of Respondent No.7 submits that though NAAQS is notified under Section 16 of Air Act, 1981, the emission standards for automobiles cannot be notified under the environmental regulations. He further submits that there is a fundamental difference between ambient air quality standards and the emission standards as the ambient air quality standards are for PM<sub>10</sub> and PM<sub>2.5</sub> whereas exhaust emission is for particulates. He, therefore, contends that there cannot be a nexus between NAAQS and emission standards and the Applicant cannot use the plea of violation of NAAQS to seek stringent emission standards.

**23.** At this stage, we would like to refer to the provisions of Section 17 of the Air Act, 1981 referred above. It is clear from the wordings of Section 17(g) that the standards for emission having regard to the standards

for quality of air as laid down by Central Board are to be formulated by the State Boards in consultation with the Central Board. It is clear from said provision that the legislature has given prime importance to the compliance of standards for quality of air while allowing certain source emissions by specifying representative emission standards for various air pollution sources. In other words, the quality of air (ambient air) has a pivotal role while formulating and framing the exhaust emission standards and this fact is amply illustrated by the provisions of Section 17(g). We, therefore, do not agree with the contention of the learned Senior Counsel on this particular aspect.

**24.** The Applicant has further contended that he had approached the Authorities regarding violation of NAAQS with request to intervene and exercise their powers as available under the Air Act, 1981 and Environment (Protection) Act, 1986. He argues that the MoEF and CPCB have all the necessary power to enforce the provisions of Air and Environment Act as per powers under Section 5 and 31A of the Environment (Protection) Act, 1986 and the Air Act, 1981 respectively. Learned Senior Counsel appearing on behalf of Respondent Nos.5 and 7 contend that the framing of standards for exhaust

emission is covered under the Motor Vehicles Act and the  
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rules made thereunder and, therefore, the MoEF and CPCB cannot take such action under the environmental regulations. With respect, we cannot agree with said contention. As already referred above, exhaust emission standards for automobiles have already been notified in Schedule-IV of the Environment (Protection) Rules, 1986 framed under the Environment (Protection) Act 1986. Further, the provisions of Section 3 read with Rule 3 of the Environment (Protection) Rules, 1986 gives sufficient powers to the Central Government in MoEF to specify standards for emission or discharge of environmental pollutants from the automobiles. Moreover Section 17(g) of the Air Act, 1981 gives similar powers to State Pollution Control Boards. The Regulatory Authorities like MoEF and CPCB, therefore, have necessary powers and mandate to decide and specify the exhaust emission standards for the automobiles and law casts obligation on them to act in order to achieve these standards; and, therefore, inaction by any of these Authorities can constitute a cause of action under Section 14 of the NGT Act wherein the issues of implementation of such enactments specified in Schedule I of the NGT Act are involved.

**25.** Another contention raised by learned Senior

Counsel was regarding role of environmental Regulatory

Authorities like MoEF and CPCB to frame standards for fuel. As already referred, the Schedule-IV of the Environment (Protection) Rules, 1986 has specified Reference Fuel for Type and Production conformity tests in Annexure-III of the Schedule. We would also like to refer to a similar Notification GSR(2)(E) dated 2<sup>nd</sup> January, 2014 of MoEF wherein rules regarding use of coal with certain ash contents has been notified. The Notification specifies that with effect from the date specified thereunder, the Coal Based Thermal Power Plants shall be supplied with, and shall use raw or blended or beneficiated coal ash not exceeding 34%, on quarterly average basis. This Notification impose certain restriction on the quality of the fuel i.e. coal to be used in Coal Based Thermal Power Plants and the Notification covers supply and use of such coal quantity thereby covering both the supply and demand of the fuel for such thermal power plants. We, therefore, do not find any substance in such stand regarding the powers available with MoEF/CPCB to regulate the fuel quality under the Environment (Protection) Act, 1986.

**26.** Right to life which involves health is a fundamental right under Article 21. Protection of this is inextricably linked with the clean environment. Clean and

healthy environment, therefore, itself is imperative for  
*Order(M.A. No.140/2015, M.A. No.144/2015 &  
M.A. No.239/2015 in Application No. 27/2015)*

assuring this fundamental right to every citizen. This position was reiterated by Apex Court in M C Metha vs. Union of India [2001] 3 SCC 756. Therefore the impact of such air emissions on Human Health cannot be given a go by. It has to be seriously scrutinized.

**27.** This Tribunal had an occasion to deal with issue regarding implementation of a notification under Environment (Protection) Act, 1986 in Ratandeep Rangari Vs Union of India and others in OA 19/2014 decided on 15.10.2015 and relevant para is reproduced for reference.

*“37. The question of effective enforcement of regulations, particularly related to environment has been elaborately dealt in various judgments of Hon’ble Supreme court of India as well as NGT. A brief summary of various judicial pronouncements is presented below which would highlight the need of effective enforcement of environmental regulations: Importance of implementation of environmental laws in India Mere legislation will not serve the purpose unless and until a proper action is taken for effective implementation towards protecting and preserving the environment. In India there is existence of codified law but we are lacking in implementation part. Time and again it is held by Indian Courts that the executive should take proper steps for implementation and enforcement of laws because as per our constitution, legislature will enact the law whereas judiciary will look after the day to day enforcement of such law and it is the executive who will implement such law in our society.*

*In the case of Indian Council For Enviro Legal Action v. Union of India[ (1996)5SCC 28]the Hon’ble Supreme Court has held that at para 28 that “The courts are ill-equipped and it is not their function to see day to day enforcement of law. This is an executive function which it is bound to discharge. A public interest litigation like the present, would not have been necessary if the authorities, as well as the people concerned, had voluntarily obeyed and/or complied with the main Notification or if the authorities who were entrusted with (J) Application No.19/2014 (WZ) 30 the responsibility, had enforced*

*the main Notification. It is play the failure of enforcement of this Notification which has led to the filing of the present petition. The effort of this Court while dealing with public interest litigation relating to environmental issues, is to see that the executive authorities take steps for implementation and enforcement of law. As such the Court has to pass orders and give directions for the protection of the fundamental rights of the people. Passing of appropriate orders requiring the implementation of the law cannot be regarded as the Court having usurped the functions of the Legislature or the Executive. The orders are passed and directions are issued by the Court in discharge of its judicial function namely; to see that if there is a complaint by a petitioner regarding the infringement of any Constitutional or other legal right, as a result of any wrong action or inaction on the part of the State, then such wrong should not be permitted to continue. It is by keeping the aforesaid principles in mind that one has to consider as to what directions should be issued to ensure, in the best possible manner, that the provision of the main Notification which has been issued for preserving the coastal areas are not infringed.” Therefore, according to Supreme Court ruling, it is the executive who will ensure that the directions which have been passed by the courts for protecting and preserving the laws is implemented in a proper sense.*

*In the case of Laxmi Narain Modi Vs. Union of India (UOI) and Ors [(2014)2SCC417] the Hon’ble Supreme Court reiterated the importance of implementation of environmental law by issuing directions for effective implementation of law such as Prevention of Cruelty to Animals (Establishment and Registration of Societies for Prevention of Cruelty to Animals) Rules, 2000 and provisions of Environment Protection Act, 1986.*

*Again, in the case of Iqbal Chaudhary v. State of U.P. and Others 2014 4 AWC4332A] the High Court of ALLAHABAD upheld the principle of importance of implementation of environmental laws by stating at para 15 that “...In the order dated 27.8.2013, the Apex Court reiterated the importance of proper implementation of various legislative provisions by all the State Governments, the State Animal Welfare Boards, Pollution Control Board etc. and the need to scrupulously follow the guidelines issued by the Ministry of Environment and Forest, in compliance of the direction given by it on 10.10.2012. Thereafter, it has directed all the State Governments and the Union Territories and the Committees constituted to strictly follow the above guidelines. Consequently, directions/guidelines were issued to certain States, including State of Uttar Pradesh to implement the*

*provisions of the Act mentioned therein and file an action taken report.”*

*Furthermore, the Supreme court of India In Re: Noise Pollution - Implementation of the Laws for restricting use of loudspeakers and high volume producing sound systems [(2005)5SCC733] has emphasised on the point that “there is an equal need of developing mechanism and infrastructure for enforcement of the prevalent laws.” (J) Application No.19/2014 (WZ) 31 This Hon’ble court further stated that at para 98 “Not that the Legislature and the Executive in India are completely unmindful of the menace of noise pollution. Laws have been enacted and the Rules have been framed by the Executive for carrying on the purposes of the legislation. The real issue is with the implementation of the laws. What is needed is the will to implement the laws.”*

*The Hon’ble National Green Tribunal by upholding the ratio of the above mentioned case reiterate in the case of Dileep B. Navetia v. Union Of India [ National Green Tribunal, Western Zone Bench, Pune, Application No. 2/2014 Decided on 23.09.2014] that “ in the absence of an effective mechanism to enforce and implement the noise standards prescribed under the EP Rules and Motor Vehicles Rules, the noise pollution mainly in urban areas cannot be effectively controlled.” Therefore, the will to implement the prevalent law as well as directions of the courts for protecting the mother environment is more important than playing a mere blame game regarding the delegation of power to implement such direction by the executive”.*

**28.** Further the prayers are related to making the existing standards more stringent for achieving the NAAQ Standards which law enjoins to achieve. Thus, the applicant raises substantial questions of environment as envisaged u/s 14 of the NGT Act, 2010, which the applicant is prompted to raise due to deteriorating Air Quality Standards, particularly in Mumbai. The Environment (Protection) Act, 1986 as well as the Air Act, 1981 have necessary provisions and procedure for

making standards more stringent. It may be necessary for these Authorities to take holistic scientific approach based on prevailing ambient air quality, technologies available, health burden of non-implementation, economics of implementation and consultation with the stake-holders. However, the roll-out of such stringent standards is a complex issue and the process itself involving technological issues, finances, change management strategies, implementation mechanism, etc. may need a multi-pronged approach.

**29.** Section 18 of the National Green Tribunal Act, 2010 spells out the category of persons who can initiate an application for grant of relief or compensation or settlement of dispute before the Tribunal in following terms:

**“18. Application or appeal to Tribunal –**

(1).....

(2) *Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by-*

- (a) *the person, who has sustained the injury; or*
- (b) *the owner of the property to which the damage has been caused; or*
- (c) *where death has resulted from the environmental damage, by all or any of the legal representative of the deceased; or*

- (d) *any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or*
- (e) *any person aggrieved, including any representative body or organisation; or*
- (f) *the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 (29 of 1986) or any other law for the time being in force:  
.....”*

Thus, a wide spectrum of persons, more particularly any person, aggrieved can move the Tribunal for grant of relief or compensation or settlement of dispute. In the instant case the Applicant a resident of Mumbai one of the metros threatened with increasing menace of air pollution caused due to the automobile emission has moved this Application for directions to the authorities, particularly, Respondent No.1- Union of India and Respondent No.2- Ministry of Petroleum and Natural Gas to take measures for introduction of BS-VI gasoline diesel latest by April, 2017. Ancillary directions are also sought in the present Application. The Applicant has co-related the use of quality of fuel to the atmospheric pollution in his

Application. Atmosphere has no compartments and no geographical barriers. A nationwide change in use of fuel and consequent switch over to the better fuel will bring salubrious change in atmosphere. Inaction in this regard according to the Applicant is bound to put pollution load on the atmosphere i.e. environment in general which can be avoided with the use of better fuel. He has therefore reason to make a grievance about the inaction of the Authorities as could be seen from the Application. He, therefore, can be regarded as a “person aggrieved” within the meaning of Section 18(2) of the National Green Tribunal Act, 2010. We, therefore, reject the submission that the Applicant has no locus standi in the present case.

**30.** From the above referred discussion, we are of the considered opinion that the objections raised by the Respondents regarding policy matter, environmental dispute, cause of action, locus and applicability of environmental regulations cannot be sustained considering the existing provisions of Environment (Protection) Act, 1986 as well as Air Act, 1981. The IssueNos. (1) and (2) are, therefore, decided as under:

**Issue No.1 – Yes**

**Issue No.2 – Yes**

**Issue No.(3)**

**31.** Learned Senior Counsel appearing on behalf of Respondent No.5 submits that they have established refineries in the SEZ area and are expected to comply with certain obligations under the provisions of the SEZ Act to operate their plant and also to avail certain tax benefits. He further contends that he cannot violate the provision of this Act by supplying the fuel in the open market without necessary approval of the Authorities or amendment in the said Act. He, therefore, argues that the Applicant cannot seek any specific relief against Respondent No.6 to distribute BS-VI fuel in the country. The Applicant submits both Respondent Nos.5 and 6 are already selling certain products manufactured in their Refineries located in the SEZ Area in open market after paying tax and duties. Respondent Nos.5 and 6 do not controvert this fact.

**32.** In the present Application as noted above, the Applicant is only seeking directions to the Authorities to take measures to introduce BS-VI gasoline diesel and some other ancillary measures. Needless to say, that such measure are to be taken in accordance with law upon exercising the rule making power envisaged in the Environment (Protection) Act, 1986. Once such power is

duly exercised, the issues arising out of other enactments like SEZ Act become subservient to the cause of environment on account of overriding effect of the Rules made under the Environment (Protection) Act, 1986 by virtue of Section 24 of the said Act which reads as follows:

“

**“24. Effect of other laws.** – (1) Subject to the provisions of sub-section (2), the provisions of this Act and the rules or orders made therein shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Where any act or omission constitutes an offence punishable under this Act and also under any other Act then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.”

Pertinently, we are dealing with the environmental issue in the present case as per the provisions of the National Green Tribunal Act, 2010. Provisions of SEZ Act cannot eclipse the provisions of National Green Tribunal Act, 2010 by virtue of Section 33 of the National Green Tribunal Act, 2010 which reads as under:

**“33. Act to have overriding effect.** - The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

A look at the Special Economic Zone Act, 2005 under which the obligations of the contending respondents seem

to raise is a Central legislation alike the Environment (Protection) Act, 1986 and NGT Act, 2010; and the Central Government administers and execute the powers and functions thereunder through the Board constituted under Section 8, Development Commissioner constituted under Section 11, Approval Committee under Section 13, officer or agency under Section 20, Authority under Section 31 under the SEZ Act, 2005. The Central Government thus can harmoniously execute the provisions of the said Acts to achieve the goals of National Ambient Air Quality NAAQ Standards set-out under the Environment (Protection) Act, 1986

The Issue is, therefore, answered negatively.

**Issue No.(4)**

**33.** The main objection of the Respondents is that only two Private Sector Refineries have been joined as Respondents whereas, there are many Public Sector and Joint Sector Oil Refineries in the country. Any relief, if granted, will definitely effect the operation of these Refineries which are not part of the Application. Respondents further submits that even going by the

manufacturing capacity, the Refineries which are not party in the present Application, manufacture much more fuel quantity than Respondent Nos.5 and 6 put together. They, therefore, contend that it was necessary for the Applicant to join all the Refineries who manufacture petroleum products for automobiles and such non-joinder can itself be a sufficient cause for dismissal of the Application.

**34.** In response the main contention of the Applicant is that there is a continuous violation of NAAQS and the environmental authorities like MoEF and CPCB have failed to take initiative for stringent mass exhaust emission standards for the automobiles in order to comply with the NAAQS. Thus, it is his case that environmental Regulatory Agencies have failed to take necessary action and both MoEF and CPCB, who have necessary mandate and powers under the Environmental Protection law, have been made party respondents. Moreover, the Association of Automobile Manufacturers has intervened in the present Application and subsequently, they have been joined as Respondent No.7. In any case, the applicant submits, the Ministry of Petroleum and Natural Gas, a competent Agency for all the Oil Sector activities exercising control over and

administering all public and joint sector Refineries, is a  
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party to the present Application and therefore, the interest of such Refineries can be taken care by the Ministry. Pertinently, the respondent no.2 the Ministry of Petroleum and Natural Gas has not raised any such objection. As observed hereinabove the Applicant is only seeking reliefs against the Authorities. Refineries, therefore, cannot be regarded as necessary parties to the present Application more particularly when the Authorities would be resorting to the measures to introduce BS-VI fuel in accordance with law. Issue No.4 is, therefore, answered negatively.

**Issue No.(5)**

**35.** The main objection of the Respondent No.7 is that the Western Zone Bench of National Green Tribunal with its limited territorial jurisdiction cannot entertain the present Application seeking reliefs having Pan India implications. The Applicant simply submits that he stays in Mumbai and, therefore, the reliefs prayed, though are of pan India nature, are equally applicable in the State of Maharashtra and, therefore, the Tribunal has jurisdiction to deal with the present Application. We may refer to Rule-11 of the National Green Tribunal (Practices and Procedure) Rules, 2011 which is reproduced below:

**“11. Place of filing application or appeal –**  
*An application or appeal, as the case may be, shall ordinarily be filed by an applicant or appellant, as the case may be, with the Registrar of the Tribunal at its ordinary place of sitting falling within the jurisdiction, the cause of action, wholly or in part, has arisen.”*

**36.** It is amply clear from the provisions of Rule 11 that the Application or Appeal can be filed for the cause of action, wholly or in part as arisen in the jurisdiction of its original place of sitting of the Tribunal and, therefore, the provision spells out the place of filing an application or appeal ordinarily *visa.vis* cause of action and not the effect of the relief. In the present case, the cause of action partly arose upon the representation made by the Applicant to the Authorities to take effective steps to ensure compliance of National Ambient Air Quality on account of deteriorating air quality noticed in Mumbai.

**37.** National Green Tribunal to which we are one of the Benches is established to exercise jurisdiction, power and authority conferred by or under the National Green Tribunal Act, 2010 by virtue of Section 3 of the said Act. Section 4 of the said Act gives a composition of the Tribunal in following words:

**“4. Composition of Tribunal. – (1) The Tribunal shall consist of,-**

- (a) *a full-time Chairperson;*
- (b) *not less than ten but subject not maximum of twenty full-time Judicial Members as the*

*Central Government may, from time to time, notify;*

- (c) *not less than ten but subject to maximum of twenty full-time Expert Members, as the Central Government may, from time to time notify.*

(2) *The Chairperson of the Tribunal may, if considered necessary invite any one or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.*

(3) *The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.*

(4) *The Central Government may, in consultation with the Chairperson of the Tribunal, make rules regulating generally the practices and procedure of the Tribunal, including:-*

- (a) *the rules as to the persons who shall be entitled to appear before the Tribunal;*
- (b) *the rules as to the procedure for hearing applications and appeals and other matters [including the circuit procedure for hearing at a place other than the ordinary place of its sitting falling within the jurisdiction referred to in sub-section (3)], pertaining to the applications and appeals;*
- (c) *the minimum number of Members who shall hear the applications and appeals in respect of any class or classes of applications and appeals:*

*Provided that the number of Expert Members shall, in hearing an applications or appeal, be equal to the number of Judicial Members hearing such application or appeal;*

- (d) *rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.”*

The Central Government, thus, by notification specifies

the ordinary place or place of sitting of the Tribunal and

the territorial jurisdiction falling under each place of such sitting. Pertinently, the Tribunal is a National Tribunal composing of its Members is a composite whole and the Members deal with the business of the Tribunal as allocated to them by virtue of their place of sitting or by the Chairperson of the Tribunal. An Application or Appeal filed at a particular place of sitting of the Tribunal falling within the territorial jurisdiction where the cause of action is wholly or in part arisen will ordinarily come before the Bench of the Tribunal holding sitting at such place. Such matter must necessarily involve a substantial question relating to environment and which arises out of the implementation of the enactments specified in Schedule-I of the Act, which have Pan India application, for the Tribunal to exercise its jurisdiction. Term “environment” has a wide meaning and its definition finds place at Section 2(c) of the National Green Tribunal Act, 2010 in following words:

*“(c) “environment” includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;”*

As observed hereinabove, the environment cannot be compartmentalized by territorial boundaries and the issue before any of the Benches of the Tribunal can be of wide

magnitude, even spreading nationwide, and as per the impacts on the environment within the territorial limits of India. We are, therefore, of the considered opinion that this Bench of the Tribunal is competent to deal with the present Application as framed. Issue is, therefore, answered affirmatively.

**Issue No.(6)**

**38.** Now, finally coming to the Issue No.6, we have perused the records filed by the Respondents and it is observed that the Environment Pollution (Prevention and Control) Authority for the National Capital Region which is hereinafter referred as EPCA has filed a Report in February, 2014 before the Apex Court in Writ Petition(C) No.13029 of 1985 i.e M.C. Mehta Vs. Union of India & Ors wherein certain directives have been sought from the Hon'ble Apex Court which are as under:

*“Directives sought from the Hon'ble Supreme Court:  
The Union Ministry of Petroleum and Natural Gas and the Union Ministry of Road Transport and Highways be directed to ensure:*

- *Bharat Stage IV emissions standards be introduced nation-wide by 2015. Cars should meet Euro V by 2016. Stringent timeline for introduction of Euro VI by 2021. This rapid improvement in fuel quality-vehicle technology is needed across the country to reduce direct exposure to toxic vehicular fume. This nation-wide action will benefit Delhi and NCR that has emerged as a pollution hotspot.*

- *If there are concerns over costs of improving quality of fuels then the government may also be directed to frame fiscal measures to meet the refinery upgrade costs to produce clean fuels for rapid introduction of clean diesel and technology.”*

In the said Report the EPCA has further recommended to the Apex Court to issue directions to introduce BS-V Cars emission standards by year 2016 and for maintaining stringent timeline for introduction of BS-VI emission standards by year 2021. Significantly, the EPCA was constituted on the directions of Hon'ble Apex Court and EPCA was further dealing with the air pollution in various urban areas of the country. It is noted from the records of meeting held on 6<sup>th</sup> April, 2015 held by Secretary (RT&H) to discuss the issue raised by EPCA in IA 345 in Writ Petition(C) No. 13029 of 1985 that the issue of leap frogging from BS-IV to BS-V is presently before the Apex Court. It is thus observed in Para-9 of the minutes as -

**“9. After detailed discussion, Secretary, RT&H summarized those BS-IV emission norms for four wheelers shall be –North India by October, 2015, South India by April 2016 and all India by April, 2017. BS-V and BS-VI Emission norms for four wheelers shall be implemented from the year 2019 and 2023 respectively, which has been advanced by one year from the recommendations of AFVP 2025. For this, BS-V/VI fuel specification will have to be made available across the country from the year 2019 onwards.”**

It is evident from the Report as well as submissions on the record that the Apex Court is seized of the issue involved in this Application i.e. preponing of the BS-VI vehicle emission norms and associated fuel quality roll-out in the said Writ Petition (C) No.13029 of 1985. It is, therefore, prudent for this Tribunal to keep its hands off from dealing with present application on the principles of judicial discipline and, therefore, we are not inclined to deal with this Application any further.

**39.** And therefore, M.A. No.140/2015, M.A. No.144/2015 and M.A. No.239/2015 are allowed and consequently Application No.27/2015 stands disposed of. No order as to costs.

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

....., **EM**  
**(Dr. Ajay.A. Deshpande)**

**Date :8th August, 2016.**  
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