

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,  
BHOPAL**

**Original Application No. 01/2013 (CZ)**

**Centre for Environment Protection, Research & Development Vs. State of M.P. & Others.  
and**

**Original Application No. 08/2015 (CZ)**

**Manish Sharma Vs. State of MP & Ors**

**CORUM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**PRESENT :**

**Applicant : None**  
**Respondent /State of M.P. : Shri Sachin Verma, Advocate  
Shri R.K.Jain, Addl. Transport Comm.**  
**Respondent/Min. Of Petro. : Shri Rohit Sharma, Advocate for  
Mr. Deepesh Joshi, Advocate**  
**Respondent/MPPCB : Ms. Parul Bhadoria, Advocate  
Shri Purushaindra Kaurav, Advocate**  
**Respondent No. 6 : Shri Om S. Shrivastav, Advocate**  
**CPCB : Shri Sandeep Singh, Advocate**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 2 &amp; 3 3<sup>rd</sup> August, 2015</b>	<p>This O.A. No. 1/2013 which was received upon transfer of the Writ Petition No. 134 of 2003 from the Hon'ble High Court of Madhya Pradesh at Jabalpur vide its order after its transfer in pursuance of the judgement of the Hon'ble Supreme Court in <i>Bhopal Gas Peedit Mahila Udyog Sangathan and ors V.s Union of India ors.</i> (2012) 8 SCC 326 was registered as OA. No 37 of 2012 at the Principal Bench at New Delhi and after the establishment of this Bench at Bhopal was transferred here and was taken up for consideration by the Bench on 08.04.2013.</p> <p>The Hon'ble High Court having considered the matter was pleased to direct the matter to be listed and heard by the green Bench. In various orders passed by the Hon'ble High Court it was noticed that the Public Interest Litigation filed before it raised, among others, the grievance against "Pollution which is being caused by vehicles in the city of Indore".</p> <p>It was further observed in the order dated 08.02.2010 by the Hon'ble High Court that the basic issue which may also require consideration would be as to whether Madhya Pradesh Pollution Control Board (MPPCB)/ Respondent No.4 is taking strict measures to regulate the running of such vehicle which are a source of pollution in the city.</p>

On the next date 09.03.2010 the Hon'ble High Court having considered the reply filed by the Respondents observed "*we feel that no steps for controlling vehicle pollution caused by vehicle in the city of Indore has been spelt out*". The matter more or less remained the same till it was transferred to this Bench from the High Court to the Principle Bench, as was alleged to be in 2003 and could only have grown worse with number of motor vehicles having increased many fold.

While dealing with this issue of pollution as a result of emissions from the motor vehicles the issue with regard to adherence to the norms and requirements under Motor Vehicles Act as well as the Central Motor Vehicle Rules were taken note of time and again. Various issues and proposals in this behalf were considered including the proposals for resort to CNG etc. During this period so far as the city of Indore was concerned it was also enlisted as one of the most critical polluted city under the CEPI score and so the matter of use of alternative as fuel i.e. CNG as fuel and having only BS-IV compliant vehicles as public transport and other vehicle was also discussed. However it was pointed out that adequate number of BS-IV compliant vehicles were not be available so also the non-availability of BS-IV fuel at Indore for such vehicles. Having taken note of all these developments and various other options on 06.05.14 it was noted by this Tribunal during the course of the hearing that compliance under rule 115 of the Central Motor Vehicles Rules 1989 pertaining to the requirement of obtaining Pollution Under Control certificates (PUC) indicating the emission norms of the motor vehicles both public transport commercial/private vehicles was not adhered to in the State of MP. This was not only so in case of the city of Indore but also in the entire State. Counsel for the State was accordingly directed to file the affidavit of the Transport Commissioner in this behalf.

On 26.05.2014 it was submitted by Learned Counsel for the State that directions have been issued for carrying out PUC certificate under rule 115 and that an effective drive would be carried out throughout Madhya Pradesh

by the Transport Department. On subsequent dates the required information which was required to be filed by the State only contained partial information and that too for the city of Indore. With a view to impress upon the State Government the need for compliance of the rules even the Transport Commissioner and the Secretary to the Government were required to remain present during the course of hearing. On 01.12.2014 it was brought to the notice of the Tribunal that non-compliance of the provisions of the Motor Vehicle Rules 1989, in the National Capital Region/State of Delhi orders have been issued making it mandatory for all petrol pumps to ensure that fuel, Petrol & Diesel was supplied only to those vehicles which had valid PUC certificates. It was on this basis that the State was asked whether it would like to follow the same measures in the State of M.P. as a precautionary principle and issue similar directions. On the next date of hearing i.e. on 13.01.2015 partial information with regard to compliance of rule 115 of the Motor Vehicle Rule 1989 in respect of PUC checks of motor vehicles in the State of M.P. was provided. Information pertaining to 23 Districts only was furnished. No information was furnished for 28 Districts Even as per the information of the 23 Districts it became apparent that no particular information with regard to actual number of pollution testing centres in operation was provided which included the city of Bhopal which is the capital of State. The matter more or less remained the same and of 19.02.2015 again two months time was sought by the State for making the compliance of the provision of law with regard to the requirement of PUC certificates and carrying out checks.

On 21.04.2015 i.e. after nearly a year when this issue was first taken up for consideration on 06.05.2014 this Tribunal took note of the entire background as well as order that had been passed in O.A. NO. 49/2015 in the matter of *Navin Verma Vs. Govt. of Rajasthan* dealing with the identical issue in the State of Rajasthan. The Tribunal had noted the submission of the Learned Counsel for the State that the State of MP was making an effort for setting up the pollution checking centres by implementing a scheme titled

“*Motoryan Ke Pradushan Ki Jaanch, 2001*” in respect of conferring the for power issuing authorisation letter to the authorised agents appointed for carrying out the pollution under control checks.

It was also submitted that initially about 145 such agents had been appointed and out of them only about 75 are operating in the entire State. It was therefore submitted that new authorised centres were required to be set up. This Tribunal took note of the fact that the prevailing situation had not cropped up over night and the rules had not been enforced from the very inception and the State was required to ensure the compliance of the provisions of law.

It is in this background, when the petition drawing the attention to vehicular pollution had been pending before the Hon’ble High Court right from the year 2003 and in which the issue had been taken up by this Tribunal for nearly year that directions were issued by this Tribunal, for ensuring the compliance of the requirement of carrying out PUC checks of all motor vehicles and taking note of the provisions of Rule 115 & 116, in particular read with Section 39 of the Motor Vehicle Act, 1988, it was directed that by 31.07.2015 all measures should be put into place with due publicity so as not to cause any hardship to the vehicle owners failing which the supply of fuel to the vehicles not possessing valid PUC be withheld. Three months time was allowed to the State.

Today a review petition has been submitted before us by way of Misc. Application No. 394/2015 by the State on the ground that in similar circumstances an order dtd. 19.03.2015 issued by the Commissioner, Food & Civil Supplies, Govt. of MP restraining the supply of fuel to two wheelers in the event of driver of such two wheelers not possessing a helmet. It was submitted that the said order came to be challenged before the Hon’ble High Court of Madhya Pradesh at Indore Bench in W.P. No. 2213/2015 and the Hon’ble High Court vide its order dtd. 06.04.2015 had stayed the operation of the order passed by the Commissioner. It has been submitted in the review petition that the Hon’ble High Court having stayed and order passed

by the Commissioner under section 7 of EC Act, 1955 the State was not in a position to comply with our order on the same analogy and the same be recalled on review.

We may firstly submit that Learned Counsel for the State Shri Sachin K. Verma, did not dispute the fact that a review petition is maintainable only in the event of there being an error apparent on the face of record and he did not also dispute that there was no error apparent on the face of record so as far as the order dtd. 25.04.2015 is concerned.

We are conscious of the fact that while passing orders under Section 14, 15, & 16 of the National Green Tribunal Act, 2010 this Tribunal also has to act within the four corners of the law. While dealing with this issue the Tribunal had taken note of the requirements of law with regard to compliance of the pollution norms by all motor vehicles except in the case of those sold by the manufacturer within one year of the day of sale/purchase. In our order in the case of *Navin Verma Vs. Govt. of Rajasthan, Original Application No. 49/2014* specific reference had been made to the requirement under Rule 115 of the Central Motor Vehicle Rule, 1989 wherein it is provided that every motor vehicle shall be so driven so as to comply with the norms prescribed in this. Under Rules 115 sub Rule 7 it has been specifically laid down *that after the expiry of a period of one year from the date on which the motor vehicle was first registered every such vehicle shall carry a valid pollution under control certificate issued by an agency authorised for this purpose by the State Government. The validity of the certificate shall be for 6 months and the certificate shall always be carried in the vehicle and produced on demand by the officer referred to in sub-rule (1) the Rule 116' of the Central Motor Vehicle Rules.* It is clearly stipulated that if the owner or the driver of the motor vehicle fails to produce the certificate at the time of inspection he would be allowed time of 7 days to produce the same and on failure to comply with the requirement within the period of such 7 days the owner of the vehicle shall be liable for penalty under sub-section (2) of section 190 of the Act. It is further provided under

Rule 116 that information with regard to the above shall be sent to the registering authority and the registering authority shall on the receipt of the report and on reasons to be recorded in writing suspend the certificate of registration until such time that such certificate is produced before the registering authority. On the suspension of the certificate it is further provided that any permission in respect of the vehicle shall be deemed to have been suspended until a fresh PUC certificate is obtained. The net effect of the aforesaid provision as was laid down in our earlier orders is that as a consequence of suspension of registration the consequence as provided under Section 39 were required to follow. Under Section 39 of Motor Vehicle Act 1988 it is specifically laid down that no person shall drive any Motor Vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place unless the vehicle is registered in accordance with this chapter and certificate of registration of the vehicle has not been suspended or cancelled.

The necessary implication, therefore, is the failure to get a PUC Certificate would entail the information being submitted to the registering authority and the registering authority suspending the registration of the motor vehicle until such period till the PUC certificate is submitted before it. This is also the case in commercial vehicles where the permit is also liable to be suspended or cancelled. As a result of the suspension of the registration the vehicle does not conform to the provisions of Section 39 and cannot be allowed to ply in a public places. It is needless to add that for plying a motor vehicle in public place it will require fuel. It is in this light that to ensure the compliance of the provision of law as contained in Rule 115 & 116 of the Motor Vehicle Rule, 1989 read with Section 39 of the Motor Vehicle Act 1988 and for ensuring that no polluting vehicle is allowed to run in public place that the Tribunal had directed for ensuring that no vehicle without a valid PUC be supplied fuel.

In the light of what we have reiterated in our order we find no reason to review our earlier order either in *Navin Verma Vs. Govt. of Rajasthan*,

*Original Application No. 49/2014* order dtd. 21.04.2015 and we would expect the State of MP to comply with the order in letter and spirit. Since that is the mandate of law and not merely the order of this Tribunal. Our order is only to ensure compliance of the Law of the Land. The review Application therefore stands dismissed.

Having noted the fact with regard to the non compliance of the provision of law we are also constrained to observe the slow pace at which the Transport Department in the State of MP is proceeding. The Applicant in this case had drawn the attention with regard to the vehicular pollution more than 11 years ago during which period in the city of Indore pollution levels was so high that it came within critically polluted city of India under the CEPI score. In spite of all these and matter having been considered before the Hon'ble High Court at Jabalpur for nearly decade no effective steps were taken by the State. Even now shelter is being sought to be taken on the pretext of the amendment of the Rules of procedure for appointment of authorised agents. We are constrained to observe that this attitude of the State in not showing due regard to the adherence of law for the prevention of pollution and makes the State liable on the 'Polluter Pays Principle'. The number of motor vehicle registered in the State in the last ten years would indicate the manner in which the pollution caused by the motor vehicles has risen. It appears that the State is only happy to receive the taxes as a result of registration of motor vehicles, but is doing very little so as to counter the ill effects of particularly the pollution cause as a result the use of such motor vehicles within the State since they do not undergo PUC Certification as required by law. While under Article 51(A) (g) it is the duty of every citizen for protecting the environment under Article 48 (A) of the Constitution it is expected of the State to take all necessary measures that may be necessary and it is in this context that the provisions of Rule 115 &116 of the Motor Vehicles Act 1989 have been enacted for protection of the Environment. The State must therefore respect the laws and take immediate measures for implementation of these rules and the directions issued in this behalf. If the

State is serious and provides the necessary infrastructure then the citizens would not suffer at all since vehicular pollution has serious health hazardous. It has been mentioned before us that the order would result in hardship as there are only 75 odd such agencies operating in their entire State of M.P. Looking to the number of vehicles which are registered within the State and requiring PUC certificate every six months is highly inadequate. As it would be even evident from the earlier part of our order regarding the history of our proceedings the issue had been brought to our light nearly a year ago and even within this period of one year from May 2014 no effective steps have been taken by the State for ensuring that adequate number of authorised persons dealing with the equipment for checking of vehicular pollution were set up. While on this subject it is also necessary to note that some of the agents which are still carrying out the task of giving the PUC certificate may be using obsolete equipment. The need, therefore, is to ensure the proper State of the Art equipment which is conforming to the requirement as per the ARA requirement. The review petition is a vexation piece of litigation in our view and the State has done precious little to comply with the law.

We would grant the State of MP a further period of 60 days to make the necessary compliance on the condition that the State Govt. give a security before the Registrar of this Bench for an amount of Rs. 25 Crores (Twenty Five Crores) within one week from today with the undertaking that it would be complied with the requirements, failing which the security shall be liable to be attached and the amount deposited utilised for environmental needs under the National Green Tribunal Act, 2010.

Let the matter be listed on **7<sup>th</sup> October, 2015** for noting compliance.

.....JM  
(DALIP SINGH)

.....EM  
(BIKRAM SINGH SAJWAN)