

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.

CORUM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBER

PRESENT :

Applicant : None appeared
Respondent No. 1, 3 & 5 : Shri Sachin Verma, Advocate
Respondent No. 2. : Shri Deepesh Joshi, Advocate
Shri Neeraj Mittal, Joint Secretary
Shri Mohan Lal , Dy. (RA)
Sjro Rpjot Dawar, PPAC
Shri Sharad Devasthale, Sr. Manager
Awantika Gas

Respondent No. 4 : Shri Shivendu Joshi, Adv. for Shri
Purushaindra Kaurav, Advocate
Respondent No. 6 : Shri Om S. Shrivastav, Advocate
Respondent No. 7 : Shri Sandeep Singh, Advocate

Date and Remarks	Orders of the Tribunal
Item No.5 31st March, 2014	<p>In pursuance of our dtd. 20.03.2014 Joint Secretary, Ministry of Petroleum & Natural Gas, Govt. of India is present along with Shri Deepesh Joshi, Learned Counsel. Shri Sachin K. Verma, Learned Counsel for the State of Madhya Pradesh. Shri Shiviendu Joshi, Learned Counsel for the MP Pollution Control Board.</p> <p>This Tribunal having considered the affidavit filed by the Chief Secretary, Govt. of Madhya Pradesh dtd. 12.11.2013 took note of the action plan highlighting 26 points proposed for reduction of pollution levels in the city of Indore. Since the city of Indore had been included in the category of critically polluted areas based upon the CEPI score calculated by the Central Pollution Control Board (CPCB) and one of the issues raised in this petition is with regard to air pollution being caused as a result of vehicular traffic and point nos. 14 to 19 in the 26 point action plan filed on 12.11.2013, is related to pollution as a result of vehicular traffic in the city of Indore and more prominently the</p>

need which was felt is with regard to change over from BS-III compliant vehicles to BS-IV compliant vehicles and the specific need for the availability of BS-IV compliant fuel for such vehicles, it was felt necessary to have the views of the Ministry of Petroleum & Natural Gas, Govt. of India. Since the Learned Counsel submits that Indore city still not being supplied with BS-IV compliant fuel despite there being an urgent need, we have considered it necessary to get the views of the Ministry of Petroleum & Natural Gas, Govt. of India and accordingly summoned the Joint Secretary to apprise in this behalf.

When questioned as to why no affidavit has been filed before us by the Ministry Shri Deepesh Joshi, Learned Counsel appearing on behalf of the Ministry of Petroleum & Natural Gas, Govt. of India, stated that no queries have been raised earlier in this regard and therefore he was not able to prepare and file the affidavit. However, the Joint Secretary pointed out that at present in the city of Indore it may not be possible to provide BS-IV fuel as a city or a region where BS-IV fuel is provided, no BS-III fuel is provided and only one specific type of fuel is supplied in that particular city or region and there cannot be 2 types fuel i.e. BS-III and BS-IV being supplied at the time in a particular city or region.

He further stated that with a view to overcome the aforesaid problem and to ensure that the entire country switches over to BS-IV compliant fuel in a phased manner, the Ministry has constituted an expert committee headed by Shri Soumitra Choudhary, Member, Planning Commission along with the representatives from the Ministry of Petroleum & Natural Gas, Ministry of Transport & MoEF among others as members of the committee and the aforesaid committee is expected to submit its report in the month of April, 2014 itself. It would then be taken up for consideration by the Government

and action taken accordingly on the proposals submitted by the Expert Committee.

We have taken note of the above fact. However, our anxiety still persists with regard to Indore being one of the most critically polluted areas as per the CEPI score and for which it is understood that vehicular pollution and ambient air quality is a major cause for air pollution. We accordingly direct Shri Deepesh Joshi, Learned Counsel for Ministry of Petroleum & Natural Gas, Govt. of India to file an affidavit with the aforesaid relevant information for record.

One more issue which had been brought to our notice on the previous hearing in the accompanying matter of Shri Kishore Kodwani vs. District Collector, Indore & Ors. (O.A. No. 19/2013), was with regard to the apprising of the details of CNG being supplied through retail outlets in the city of Indore by the Awantika Gas Agency as opposed to the price at which CNG is being supplied outside the city limit of Indore by GAIL at its retail outlets and the sale price at these 2 places is varying by more than Rs 10/- per kg.

We, therefore wanted to understand why there is such variation in the price of CNG. It was submitted before us that despite measures taken to reduce air pollution in the Indore city by introduction of CNG for running private as well as public transport vehicles instead of diesel, the difference in the prices of Diesel & CNG in the city of Indore was not high enough to encourage people to switch over to CNG.

Shri Sharad Devasthale, Sr. Manager, Awantika Gas Agency, appeared before us to explain the position and *inter alia* on broader outlines on the reasons for such disparity in the prices. It was submitted that GAIL was supplying CNG at Rs. 24.80 per kg. to Awantika Gas Agency inclusive of VAT. On the aforesaid base price

of Rs. 24.80 per kg transportation cost of Rs. 1.73 per kg., cost of network tariff of Rs. 6.60 per kg., cost of compressing charges Rs. 4.33 per kg and cost of Sale & Distribution Rs. 5.03 per kg. were added which works out a total cost of Rs. 42.57 on which before the sale, a further amount of VAT and local taxes are added. As a result of which as of today, the sale price of CNG within the city of Indore is about Rs. 55/- per kg. However, the Sr. Manager, Awantika Gas Agency pointed out that w.e.f. 01.04.2014, they would be reducing the price further by Rs. 2/- per kg. within the city of Indore.

Learned Counsel pointed out that it is surprising to note that State Government is charging VAT twice over, firstly on the base price at the time of sale by the GAIL to Awantika Gas Agency and again at the time of sale by Awantika Gas Agency to the consumer in the city of Indore which is responsible for enhancement of the price from Rs. 42.57 per kg. to Rs.55/- per kg. at which rate it is being sold per kg. to the consumers in the limits of Indore city. Shri Sachin K. Verma, Learned Counsel for the State of M.P. submitted that he would apprise the Tribunal on the aforesaid issue on the next date of hearing as to whether and under what circumstances the aforesaid alleged additional taxes particularly 'VAT' are being charged and whether it is permissible to charge the aforesaid amount twice over.

We have also noted the fact from the affidavit of the Chief Secretary submitted before us on 26 points action plan on which the Government sought to work for adopting measures for reducing vehicular traffic in the city of Indore. We find that at point No. 15 the issue with regard to improvement of the fuel quality from BS-III to BS-IV standard has been enumerated.

As has been given out today, Shri Deepesh Joshi, Learned Counsel as well as the Joint Secretary, Govt. of India stated that this

matter is presently under the active consideration of Govt. of India and we would expect that the Govt. of M.P. would depute a responsible officer to follow up the aforesaid issue with the Govt. of India. At point no. 16 the issue with regard to increasing the retail outlets for supply of CNG in the city of Indore finds place. Sr. Manager, Awantika Gas Agency informed us that two additional retail outlets one at Airport Road and another at Musa Khedi are being opened which are likely to be operated by the end of April, 2014 and two more outlets are in pipeline i.e. at the Chandan Nagar & Ranwasa. We find from the action plan that phasing out of more than 15 years old vehicles is also proposed. While it is mentioned that more than 15 years old public transport vehicles are not being cleared for giving fitness certificate and therefore not allowed to run we find that there is total absence of any mention with regard to phasing out of such private vehicles. As it was submitted before us that Motor Vehicles Act, 1989 and the Rules framed thereunder also require such phasing out of old private vehicles. We therefore expect from Shri Sachin K. Verma, Learned Counsel for the State Government to submit before us with regard to phasing out of the more than 15 years old private vehicles in the city of Indore for reduction of air pollution and improving the air quality so that Indore city is able to be brought out from the list of critically polluted areas as per the CEPI score.

We have also been apprised that the Police and Transport Departments are not implementing the provision with regard to checking of vehicles which are not complying with the pollution under control measures. Shri Sachin K. Verma, Learned Counsel will apprise this Tribunal by means of an affidavit of a responsible officer from the State Transport Department as to whether such enforcing measures are being taken or not.

Shri Shivendu Joshi, Learned Counsel for the MP State Pollution Control Board brought to our notice that in pursuance of observations made by the Tribunal the MPPCB had also raised the issue with regard to supply of the BS-IV fuel in the city of Indore vide their letter dtd. 20.09.2013 addressed to the Secretary, MoEF, Govt. of India and the Chairman, Central Pollution Control Board. Shri Deepesh Joshi, Learned Counsel submitted that it was not delivered as the address was not properly noted. The Learned Counsel is directed to apprise the Tribunal whether the MP Pollution Control Board has received any action taken reply / information on the basis of correspondence made in this regard.

List on **6th May, 2014.**

.....JM
(DALIP SINGH)

.....EM
(P.S.RAO)