

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

(M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1375/2017, M.A. No. 1424/2017, M.A. No. 1425/2017, M.A. No. 1526/2017, M.A. No. 1503/2017, M.A. No. 15/2018, M.A. No. 43/2018, M.A. No. 96/2018 M.A. No. 134/2018, M.A. No. 206/2018, M.A. No. 207/2018, M.A. No. 208/2018, M.A. No. 301/2018, M.A. No. 302/2018, M.A. No. 377/2018, M.A. No. 631/2018, M.A. No. 666/2018, M.A. No. 744/2018 M.A. No. 774/2018, M.A. No. 834/2018, M.A. No. 835/2018, M.A. No. 893/2018, M.A. No. 916/2018, M.A. No. 918/2018, M.A. No. 917/2018, M.A. No. 877/2018, M.A. No. 878/2018, M.A. No. 879/2018, M.A. No. 880/2018, M.A. No. 881/2018, M.A. No. 882/2018, M.A. No. 883/2018, M.A. No. 885/2018, M.A. No. 886/2018, M.A. No. 900/2018, M.A. No. 901/2018, M.A. No. 902/2018, M.A. No. 906/2018, M.A. No. 912/2018, M.A. No. 920/2018, M.A. No. 995/2018, M.A. No. 996/2018, M.A. No. 1023/2018, M.A. No. 1024/2018, M.A. No. 1025/2018, M.A. No. 1026/2018, M.A. No. 1027/2018, M.A. No. 1028/2018, M.A. No. 1032/2018, M.A. No. 1034/2018, M.A. No. 1035/2018, M.A. No. 1036/2018, M.A. No. 1037/2018, M.A. No. 1038/2018, M.A. No. 1044/2018, M.A. No. 1045/2018, M.A. No. 1046/2018, M.A. No. 1047/2018, M.A. No. 1048/2018, M.A. No. 1052/2018, M.A. No. 1053/2018, M.A. No. 1056/2018, M.A. No. 1072/2018, M.A. No. 1079/2018, M.A. No. 1080/2018, M.A. No. 1082/2018, M.A. No. 1128/2018, M.A. No. 1129/2018, M.A. No. 1141/2018, M.A. No. 1142/2018, M.A. No. 1143/2018, M.A. No. 1144/2018, M.A. No. 1145/2018 & M.A. No. 1146/2018)

In

Original Application No. 21/2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

**Present: Applicant: Mr. Sanjay Upadhyay, Mr. Sumitra Jaiswal, and Ms. Upama Bhattacharjee, Advs.
Mr. Amber Sachdeva, in person (M.A. No. 744/2018)
Mr. Milan Deep Singh, Mr. Arjun Sawhney, Advs.
For applicant in M.A. NO. 902 and 912/2018**

**Respondents: Mrs. G. Indira, Adv. for UT of Andaman and Nicobar Administration
Mr. Edward Balho and Ms. Hoineithiam, Advs. for State of Nagaland
Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar and Mr. Sandeep Mishra, Advs. for GNCTD
Ms. Nidhi Mohan Parashar and Mr. Umang Kumar Singh, Advs.
Mr. M. Paikaray, Adv.
Mr. Jayesh Gaurav, Adv.
Mr. Gaurav Dubey, Adv.
Mr. R. Rakesh Sharma, Adv. and Mr. V. Mowli, Adv. for State of Tamil Nadu and TNPCB
Mr. Pradeep Misra, Mr. Daleep Dhayani, Advs. For UPPCB
Ms. Priyanka Sinha and Ms. Shrishti Sinha, Advs.
MS. Hemantika Wahi and Ms. Puja Singh, Advs.
Mr. Purshottam Kr.Jha, Adv.
Mr. Tayenjam Momo Singh, Adv.
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Vibhav Misra, Ms. Saumya Misra and Mr. Yashveer Singh, Advs. For DTC**

Mr. Anchit Sharma, Ms. Satmita Ghosh and dMr. Dipankar Wadhwa, ADvs. For DCB
Mr. Sandeep Singh and Mr. Vinay Pal, Adv. For State of UP
Mr. Puja Kalra and Mr. Virendra Singh, Adv. for NDMC and SDMC
Mr. Sumit Kishore, Adv. For PNGRB
Ms. Sakshi Popli, Adv. for NDMC
Mr. Rajkumar, Adv. CPCB
Mr. Girdhari Singh and Mr. Robin Bhati, Adv.
Mr. Rakesh Dewan, Adv.
Mr. Naginder Benipal, Adv.
Mr. K. Entaloi Sema and Ms. Nandini Singla, Adv.
Ms. Yogmaya Agnihotri and Ms. Prity, Adv. for CECB
Mr. V.K. Shukla, Ms. Vijay Laxmi, Adv. for State of M.P.
Mr. Purshuttam Kr. Jha, Adv.
Mr. Atul Jha, Adv. for state of Chhattisgarh
Mr. Shuvodeep Roy and Mr. Rituraj Biswas, Adv. For State of Tripura
Mr. Shuvodeep Roy, Mr. Vinayak Gupta, Adv.
Mr. Girdhari Singh, Mr. Robin Bhati, Adv.
Mr. Nishe Rajen Shonker, Adv. for State of Kerala
Mr. J. Rajesh for Mr. Ankur Chhibber, Adv.
Mr. Leishangthem Roshmani Kh. Adv. for State of Manipur
Mr. Sandeep Narain and Mr. Anjali Agarwal, Adv. for SIAH
Mr. Anuj Sarma and Ms. Niharika, Adv. for State of Goa and Goa State PCB
Mr. Mukul Singh, Adv. for MOEF & CC
Mr. Manish Kumar, Adv. for State of HP
Ms. Anu K. Joy and Ms. Nish Ranjan Shonker, Adv.
Mr. Alim Anwar, Adv.
Mr. Anil Grover, AAG Haryana with Mr. Saurabh Sachdeva and Mr. Mishal Viz., Adv.
Mr. Rajneesh Bhardwaj, Mr. Raj Kishan Gaur and Mr. Rahul Sharma, Adv.
Mr. Narender Pal Singh, Ms. Aditi Singh, Adv. And Mr. Dinesh Jindal, LO, DPCC
Mr. Raja Chatterjee, Mr. Piyush Sachdev, Mr. Abhinandini, Ms. Asha Basu and Ms. Aradhita Ghosh Mondal, Adv. for state of West Bengal
Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mondal, Adv.
Mr. Devraj Ashok, Adv.
Mrs. Anuradha, Mr. Avneesh, Ms. Anuradha and Ms. Simran Jeet, Adv. for State of Sikkim
Mr. Guntur Prabhakar, Mr. Guntur Pramod Kumar, Mr. Prashant Mathur, Adv for State of A.P
Mrs. Aruna Mathur, Mr. Avnessh Arputham, Ms. Simran Jeet and Ms. Anuradha Arputham, Adv. For state of Sikkim
Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Adv. For EDMC
Mr. Anil Shrivastav, Mr. Rituraj Biswas an dMs. Sujaya Bardhan, Adv. For State of Arunachal Pradesh
Mr. R. P. Pahwa, adv.
Mr. Raman Yadav, adv and Ms. Varnita Rastogi, Adv
For G.D.A
Mr. Mukesh Verma, Adv.
Mr. Kamaljeet Singh, AAG
Mr. Rajiv Bansal, Sr. Adv., Mr. Kush Sharma, Mr. Prateek Gautam and Ms. Fiza Saluja, Adv.
Mr. Jogy Scaria and Ms. Beena Victor, Adv.
Mr. Gaurav Dubey, Adv.
Mr. Gaurav Agarwal, Adv. for GDA
Mr. Rajneesh Bhardwaj, Mr. Raj Kishan Gaur and Mr. Rahul Sharma, Adv. For Applicants in MAs.

Mr. Ravi Sikri Sr. Adv., Mr. Deepak, Mr. Shraym Das and Mr. Arjun Syel, Applicants in MAs.
Ms, Bhoomika Nanda, Adv. for Applicant in MA
Mr. S.P. Singh Mahlaj, Adv. for Applicant in MA
Mr. Tarang Gupta, Adv. for Applicant in MA
Ms. Sonia Dubey, Ms. Kanchan Yadav and Ms. Surbhi Anand, Adv.
Mr. P. Venkat Reddy and Mr Prashant Tyagi, Adv.
Ms. Kritika Shukla, Adv. for NHAI
Mr. Ravindra Kumar, Adv. for Gr. Noida Authority
Mr. J. Rajesh, Adv.
Mr. Shoeb Alam, Adv.

	Date and Remarks	Orders of the Tribunal
	<p>Item No. 9</p> <p>July 27, 2018</p> <p>ss</p>	<p>1. This order will dispose of the applications filed by purchasers/owners of BS-IV compliant new diesel vehicles to be used as Ambulance/Fire Services and vehicles used for carrying petroleum products/food products/transportation of municipal solid waste/sewer cleaning equipments/transporting LPG cylinders and other essential services for seeking approval of this Tribunal to register the said vehicles and consequent direction to the Transport Commissioner of the Transport Department, Government of NCT Delhi for registering the said vehicles.</p> <p>2. This Tribunal directed that new diesel vehicles will not be registered in NCT Delhi <i>vide</i> order dated 11.12.2015 in O.A. No. 21/2014. This order was passed having regard to the deteriorating air quality in Delhi and the established fact that diesel vehicles greatly</p>

<p>Item No. 9</p> <p>July 27, 2018</p> <p>ss</p>	<p>contribute to the pollution of air. It is well acknowledged that heavy commercial diesel vehicles greatly contribute to pollution of air¹.</p> <p>The order dated 11.12.2015 is as follows:</p> <p>“As an interim measure till next date of posting subject to hearing of all the concerned parties, we direct that Diesel Vehicles of more than 10 years of age as already directed as well as new diesel vehicle would not be registered in NCT, Delhi”.</p> <p>The order dated 10.11.2016 is as follows:</p> <p><i>“All the judgments and orders passed by the Tribunal dated 26th November, 2014, 04th December, 2014, 07th April, 2015, 10th April, 2015, 18th May, 2015, 28th April, 2015 and 11th December, 2015 in case of Vardhaman Kaushik Vs. Union of India & Ors. in Original Application No. 21/2014 and 10th December, 2015 in the case of Vikrant Kumar Tongad Vs. Environment Pollution (Prevention Control) Authority & Ors. shall be applicable, mutatis mutandis, to the orders passed in the case of respective States and NCT, Delhi.”</i></p> <p>3. The above order was made absolute on 10.11.2016 in respect of some other States also.</p> <p>4. However, it has been brought to our notice that out of category of diesel vehicles, private cars and SUVs with the engine capacity of 2000 cc capacity and above which were earlier prohibited by the Hon’ble Supreme Court <i>vide</i> order dated</p>
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¹ M.C. Mehta Vs. Union of India (UOI) and Ors., 1999(6) SCC 9; [2002 (4) SCC 356] and [2016 (4) SCC 269]

<p>Item No. 9</p> <p>July 27, 2018</p> <p>ss</p>	<p>16.12.2015 in Writ Petition (Civil) No. 13029/1985 in the case of M.C. Mehta Vs. U.O.I. and Ors., were permitted subsequently <i>vide</i> order dated 12.08.2016 subject to certain conditions i.e. upon deposit of 1% of ex-show room price of every diesel car that is sold by any manufacturer/dealer in Delhi & NCR region towards environment protection charge. The order of the Hon'ble Supreme Court dated 16.12.2015 is as follows:</p> <p><i>“Having given our anxious consideration to the submissions made at the Bar, we are of the view that the new commercial light duty diesel vehicles can for the present continue being registered in Delhi on account of the dependence of the public on such vehicles for supply of essentials. There is, however, no reason why registration of private cars and SUVs using diesel with an engine capacity of 2000 cc and above should not be banned upto 31st March, 2016.”</i></p> <p>Order dated 12.08.2016:</p> <p><i>“We accordingly direct that the CPCB shall open a separate account in a Scheduled public sector bank to receive the amount representing 1% of the Ex-show room price of every diesel car that is sold by any manufacturer/dealer in Delhi and NCR region. The deposit of the amount alone shall entitle the manufacturer/dealer or the purchaser of the car to have the car registered within Delhi or NCR region. Our order dated 16.12.2015 shall to that extent stand modified. We, however, leave open the question whether cars less than the capacity of 2000 cc using diesel fuel should also be</i></p>
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	<p>Item No. 9</p> <p>July 27, 2018</p> <p>ss</p>	<p><i>subjected to a similar charge. So also the question whether the rate of the charge ought to be limited 1% or raised is left open to be determined at an appropriate stage. We all the same make it clear that any such enhancement in the charge if so directed by the court would not have any retrospective effect.”</i></p> <p>5. The Hon’ble Supreme Court, thereafter, on 13.04.2017 prohibited the registration of vehicles other than BS-IV compliant sold before 31.03.2017. Those sold after 01.04.2017 could be registered. However, there is no specific direction that heavy duty commercial diesel vehicles which are BS-IV compliant could be registered. The order is as follows:</p> <p><i>“Accordingly, for detailed reasons that will follow, we direct that:</i></p> <p><i>(a) On and from 1st April, 2017 such vehicles that are not BS-IV compliant shall not be sold in India by any manufacturer or dealer, that is to say that such vehicles whether two wheeler, three wheeler, four wheeler or commercial vehicles will not be sold in India by the manufacturer or dealer on and from 1st April, 2017.</i></p> <p><i>(b) All the vehicles registering authorities under the Motor Vehicles Act, 1988 are prohibited for registering such vehicles on and from 1st April, 2017 that do not meet BS-IV standards, except on proof that such a vehicle has already been sold on or before 31st March, 2017.”</i></p> <p>6. The effect is that the heavy duty diesel vehicles even if they are BS- IV compliant are not</p>
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	<p>Item No. 9</p> <p>July 27, 2018</p> <p>ss</p>	<p>being allowed to be registered which has led to filing of the present applications.</p> <p>7. On 30.01.2018, the Tribunal considered the applications of BS-IV compliant new diesel heavy vehicles owners engaged for purpose of essential services and permitted their registration subject to certain conditions. The said order is as follows:</p> <p><i>“We, therefore, allow these applications directing the Transport Commissioner, Transport Department, Government of NCT Delhi to register the BS-IV compliant vehicles referred to in the said applications on the following conditions:-</i></p> <ol style="list-style-type: none"><i>1. That the new vehicles that are sought to be registered now should be BS-IV compliant.</i><i>2. The Applicant shall file an Affidavit before the Tribunal as well as before RTO that they do not possess or engage any diesel vehicle/truck/tanker which is more than 10 years old for the purpose of transportation.</i><i>3. It is also directed to furnish details of the other vehicles owned by this Applicant in the form of Affidavit.</i><i>4. The said vehicle should be duly maintained and used only for exclusive purpose of carrying petroleum products and providing essential services or as indicated herein and no other use.</i><i>5. It should not increase the width or height of the vehicles and it should be strictly within the specified limit.</i><i>6. All these vehicles will be fitted with GPS.</i><i>7. The log-book shall also be maintained.”</i> <p>8. On the above pattern, certain other orders are also said to have been passed. Thus, the</p>
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	<p>Item No. 9 July 27, 2018 ss</p>	<p>parties understand that unless expressly permitted and subject to further conditions mentioned above, other BS-IV compliant diesel vehicles cannot be registered.</p> <p>9. On the above basis, we are of the view that applications filed by the owners of BS-IV compliant new diesel vehicles engaged in Ambulance/Fire Services and vehicles engaged for carrying petroleum products/food products/transportation of municipal solid waste/sewer cleaning equipments/ transporting LPG cylinders and such other essential services etc. will stand allowed on the same conditions as are mentioned in the Tribunal order dated 30.01.2018 reproduced above.</p> <p>10. We now come to the applications of owners of diesel vehicles in districts Moradabad, Meerut, Bulandshahar and Muzaffarnagar seeking parity with orders of the Tribunal dated 13.10.2017 passed in OA No. 21/2014 in the case of <i>Vardhaman Kaushik Vs. Union of India & Ors.</i> and connected matters, wherein, the Tribunal permitted the use of the vehicles for 3 years after 10 years on the ground that the time was required for setting up of CNG fuel stations.</p>
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	<p>Item No. 9</p> <p>July 27, 2018</p> <p>ss</p>	<p>11. Accordingly, we pass same order and direct that the said vehicles will be permitted for the unexpired period of 3 years in the said area and on the same conditions that they will not enter NCT Delhi.</p> <p>12. The other applications have been filed seeking permission to continue the use of 10 years old diesel vehicles or registration of new diesel vehicles which are not BS-IV compliant or which are not needed for essential services. Such applications cannot be allowed, since the order of the Tribunal dated 11.12.2015 prohibits diesel vehicles and exception has been made only in the case of vehicles engaged for essential services, pending alternatives being explored.</p> <p>13. This order may not be treated as a precedent for permitting diesel vehicles even for essential services for all times to come unless orders of the Tribunal dated 11.12.2015 and 07.10.2016 are vacated. It has not been brought to our notice that in any order of this Tribunal or the Hon'ble Supreme Court diesel vehicles other than diesel cars/SUVs of 2000 cc capacity and above, even if BSIV compliant, can be unconditionally registered in the NCT. Though Tribunal has made exception</p>
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	<p>Item No. 9</p> <p>July 27, 2018</p> <p>ss</p>	<p>in respect of vehicles meant for essential services on ad hoc basis, such exception has not been made across the board.</p> <p>14. The matter having been disposed of, it is made clear that such applications in a decided matter cannot be allowed to be entertained for all times. Remedy of the aggrieved parties may be to challenge the order of the Tribunal dated 11.12.2015 and 10.11.2016 instead of filing application in this Tribunal.</p> <p>15. Accordingly, all these applications stand disposed of. If any of the applications is not on the issue of diesel vehicles, liberty to mention for a separate hearing.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Satyawan Singh Garbyal)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p>27.07.2018</p>
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