

SUPREME COURT OF INDIA

M.C. Mehta

Vs.

Union of India

(Dr. A.S. Anand CJI. with B.N. Kirpal and V.N. Khare JJ.)

04.04.2001

ORDER

B.N. Kirpal, J.

1. On 28th July, 1998 this Court had directed, *inter alia*, that the entire fleet of city buses which are operating in Delhi be converted to single fuel CNG mode by 31st March, 2001. Despite this direction, given nearly 3 years ago, Government of Delhi's response has been extremely tardy, to say the least. No serious attention was paid to the order of the Court by the Administration and it appears that even the private operators got encouraged by this tardy response of the State Administration and they also did not take appropriate steps to comply with the order of the Court dated 28th July, 1998. It was after taking note of the submissions made at the bar, to mitigate to whatever extent possible, the hardship which the commuter public would have been put to, particularly the school going children, that on 26th March, 2001 certain relaxations were given by this Court. It was directed, *inter alia*, that all those vehicle owners, who have taken effective steps or shall take so by 31st March, 2001, for the purpose of either acquiring new buses which would operate on CNG fuel mode or to convert their existing buses to operate on CNG fuel mode could be granted permits/authorisations, after filing proper affidavits/undertakings in this Court, to ply their existing vehicles not more than eight years old, equal in number, till 30th September, 2001. This dispensation was also extended to other commercial vehicles which were required to switch over to CNG fuel mode. After our order dated 26th March, 2001, there was a great rush to file affidavits/undertakings in this Court. The Registry of this Court received more than 27,000 affidavits/undertakings within about three days and with a view to cope with the rush, the officials of the Registry worked on those days till about midnight.

2. On 26th March, 2001, the Principal Secretary (Transport) Shri Ashok Pradhan had been authorised to issue permits/authorisations to all eligible transporters, in accordance with the stipulations contained in the order, to be operative till 30th September, 2001. On an application made by Delhi Administration on 30.3.2001, to permit assistance of four other officers to Mr. Pradhan, to issue the permits/authorisations, on the evening of 30th March, 2001 at an emergent sitting of the Court, necessary orders were made by us granting the prayer of the Administration to facilitate it to discharge its obligations.

3. Yesterday (3.4.2001) an application was filed (I.A. No. 107/2001) on behalf of Delhi Administration. At that time Mr. Kirit N. Raval, learned Addl. Solicitor General, who appeared both for the Delhi Administration and the Union of India, submitted that Delhi Administration was taking all steps to verify the affidavits/undertakings to issue necessary permits/authorisations, after proper satisfaction, but that it was a time consuming process. It is stated in the application that in the case of some autorickshaws, certain irregularities have also been noticed which require more caution and attention being paid before issuance of permits/authorisations to those vehicles to ply till 30th September, 2001. A prayer was accordingly made in the application to permit the plying of all such buses and other commercial vehicles, which are not more than 8 years old, where their owners had filed affidavit/undertakings indicating that they had placed firm orders for conversion to CNG or other clean fuel mode and had also filed applications in the prescribed form before the Transport Department for a period of 7 days, during which authorisations/permits could be prepared and issued.

4. At the request of Mr. Raval, we had directed that application (I.A. No. 107/2001) to be listed for consideration today.

5. On the matter coming up today, Mr. Kirit N. Raval, learned Addl. Solicitor General, concerned by the defiant attitude of Delhi Administration as disclosed in the media, has made the following statement in Court today:

"As a Law Officer of the country, I will no longer appear for the Govt. of Delhi, which has decided to act contrary to the orders of the highest Court of the land. I will, however, continue to represent the Union of India.

The stand of the Union of India is two fold : (i) the plight of the suffering public should be appropriately mitigated by suitable extension of time, (ii) the Govt. of India strongly disapproves of the manner in which the Govt. of Delhi is seeking to solve the problem by defying the orders of the highest Court and not sorting them out within the constitutional frame-work."

6. We have recorded this statement and permit Mr. Raval not to appear for Delhi Administration. We appreciate the stand taken by the Union of India regarding the attitude of Delhi Administration.

7. Mr. S.W.A. Qadri, learned counsel appears for the Delhi Administration and submits that he has instructions from Delhi Administration, on whose behalf this application (I.A. No. 107/2001) seeking extension of time was filed, to withdraw the application. He submitted that steps are being taken by Delhi Administration to issue permits/authorisations after proper verification.

I.A. No. of 2001

(filed by Sh. Harish N. Salve, Amicus)

8. Mr. Harish N. Salve, learned Amicus Curiae, has filed an application seeking certain interim directions to cope with the situation arising out of delay in issuance of permits/authorisations by Delhi Administration. It is submitted by the learned Amicus, that notwithstanding the untenable stand taken by the Delhi Administration, as is apparent from the newspaper reports, many private transporters and others have taken effective steps to comply with the directions issued by this Court on 26th March, 2001 and have filed their affidavits/undertakings in this Court and also applied to the Transport Department for grant of permits/authorisations to ply their equal number of existing vehicles till 30th September, 2001 subject to the conditions contained in our order dated 26.3.2001. Mr. Salve further submits that since the number of affidavits/undertakings is quite large, the process of verification is taking time with the result that there is avoidable disruption of transport services causing hardship to the public in general and school going children in particular. It is submitted by Mr. Salve that directions as prayed for in the application be issued to mitigate hardships being suffered by the citizens, notwithstanding the withdrawal of application by the Delhi Administration (I.A. No. 107/2001).

9. Mr. Salve has submitted that the Transport Department of Delhi Administration be permitted to issue Provisional Permits valid upto 14.4.2001 to all those who have filed requisite affidavits and undertakings in this Court and have applied for grant of permit/authorisation in the prescribed form to the Transport Department.

10. In the fact situation, as existing today and taking note of the ground realities, showing a near breakdown of the transport system in Delhi, primarily due to inaction on the part of Delhi Administration to take timely effective steps, the request made by Mr. Salve commends to us. The citizens should not be made to suffer for somebody else's follies. We, therefore, in partial modification of our order dated 26th March, 2001, direct that pending verification of the correctness of affidavits/undertakings, the Transport Department of Delhi Government may issue *provisional Certificates/authorisations* valid till 14.4.2001, to all those transporters who had filed the requisite affidavits/undertakings in this Court and have applied in the prescribed form to the Transport Department for grant of regular permits/authorisations. These Provisional Certificates/authorisations may be issued by such of the officials of the Transport Department as are authorised by Mr. Pradhan in that behalf to tide over the present situation.

11. We are distressed at certain reports which have appeared in the print and electronic media, exhibiting defiant attitude on the part of the Delhi Administration to comply with our orders. The attitude, as reflected in the newspapers/electronic media, if correct, is wholly objectionable and not acceptable. We have no doubt that all those concerned with Delhi Administration are aware of the provisions of Article 144 of the Constitution which reads,

"144. *Civil and judicial authorities to act in aid of the Supreme Court* - All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court."

as also of the consequence of deliberately flouting the orders of this Court and non-compliance with the above constitutional provisions. However, before we consider the matter any further, we direct the Chief Secretary, Government of Delhi to place on affidavit, the stand of the Delhi Government insofar as implementation of the orders of this Court are concerned as also about the statements, if any, made by the Chief Minister, and Minister for Transport, Govt. of Delhi, outside the Legislative Assembly, as have appeared in the print and electronic media. The affidavit shall be filed within one week. The application filed by Mr. Salve as mentioned above, is consequently allowed. Application (I.A. No. 107/2001), filed by Delhi Administration is dismissed as withdrawn.

I.A. No. of 2001

(filed by Sh. Harish N. Salve, Amicus)

12. The learned Amicus Curiae has filed this application seeking certain directions in furtherance of the orders of this Court. Those directions essentially concern the recommendations made by Bhure Lal Committee which were accepted by this Court, requiring conversion of the entire city bus fleet to CNG mode. After hearing Mr. Salve, we direct:

“(i) The Principal Secretary (Transport) of the Delhi Government shall compile all particulars relating to the organisations which have undertaken the job of supplying CNG vehicles or converting the existing vehicles to CNG mode, on the basis of which affidavits/undertakings have been filed by the transporters and obtain from those organisations confirmation as to the time frame in which the conversion/supply shall be effected by them.

(ii) We request the Bhure Lal Committee to examine the existing standards for CNG vehicles including conversion of vehicles to CNG mode and for the CNG refilling station and submit report to this Court for our consideration within four weeks.”

13. On 26th March, 2001 we had issued directions to the D.T.C. for making available buses for schools as a condition precedent for plying their 1880 buses till 30.9.2001. Mr. M.L. Verma, learned senior counsel appearing for D.T.C. submits that as per directions issued by this Court, 860 buses (besides 126 standby buses) have been made available for school duties and that D.T.C. shall comply with the directions issued by this Court on 26.3.2001 in letter and spirit. We record the statement of Mr. Verma and would like to impress upon D.T.C. the necessity to ensure that entire contingent of 860 buses is actually made available for school duties. This step, in our opinion, would mitigate to some extent, hardships being faced by school children.

List for further directions on 12th April, 2001 at 2.00 p.m.