

3. It is submitted that emissions from automobiles are responsible for the bulk of PM load, which pollutes the ambient air. The second major cause of pollution is the Nitrogen Dioxide (NO_x) load, which again is sourced from emissions of automobiles. It is submitted that resolving the problem on account of local traffic (2-wheelers, 3-wheelers, cars, local buses etc.) raises larger issues of augmentation of public transport which are being separately dealt with. However, one serious cause of PM load and NO_x load and which is primarily on account of economic considerations, is the pollution load being inflicted upon the National Capital Territory of Delhi (NCT) by heavy traffic (trucks) which originate in parts of north India and are on their way to south and from south to north, cutting through the city and as a result adding greatly to its pollution load.
4. There are existing alternatives for commercial traffic, but these are not taken because it is cheaper to traverse through Delhi. For instance, traffic which is travelling from North India towards Jaipur and then Mumbai and further south, does not have to take the route through Delhi. From Panipat in the north, towards Rewari there is a route available on NH71A - NH71 passing through Rohtak. A part of this route is a toll way and the net cost of traversing this route on a 3-axle truck, amounts to Rs1420 per journey of 172 kms. As against these, passing through Delhi reduces the distance marginally (163 kms in place of 172 kms) but dramatically reduces the toll to Rs 450 per journey for a 3-axle truck.
5. It is submitted that there is a huge financial burden cast upon the resources of the National Capital Territory of Delhi as well as the Union Government for measures to fight pollution including measures of public health to treat those afflicted by pollution related diseases. Secondly, Article 21 of the Constitution compels the Government to take all steps that are necessary to protect public health.

6. The principle of Environment Law that the polluter has to pay is now a part of the Constitutional jurisprudence. While there is no ready measure available to compute the tangible and intangible cost inflicted by this commercial traffic on the health of the residents of Delhi, it is clear that a part of this cost can be recovered from the savings in the toll realized by those using this less expensive and marginally shorter route. It is also clear that the use of the polluter pays principle will also act as a deterrent and provide financial viability to alternative routes and bypass so that further congestion and pollution in the already toxic air of NCT is avoided and mitigated.
7. It is, therefore, submitted that it becomes a Constitutional imperative to recover these illegal savings, which are contrary to the mandate of Article 21 and to use these for dealing with the consequence of pollution.
8. The commercial traffic pays toll on all roads it takes in the country. However, as it uses the 'city' road, it is only charged a toll by the Municipal Corporation, which is not equal to the value of the toll that is paid for journey on highways. The saving to the commercial goods operator for using the city road, amounts to Rs 1000 roughly for a 3-axle truck. It is submitted that recovering this charge would result in the commercial traffic being compelled to disgorge the benefits reaped by them in avoiding toll ways and driving through the city. Even where alternatives do not exist currently, for bypassing traffic, this charge is being imposed in lieu of the toll that they would have paid, if they were using a toll road. It will also act as a deterrent and also as an incentive for the early completion of bypass roads.
9. It is therefore submitted that the recovery of this illegal saving is of the highest imperative. For a 3-axle commercial vehicle and above passing through Delhi a charge of Rs 1200 should be levied in addition to the charge that they pay as toll to the Municipal Corporation of Delhi. Trucks of 2-axle and Light

Commercial Vehicles (LCV) should be imposed a charge of Rs 600 in addition to the toll that they pay to the Municipal Corporation of Delhi. Commercial vehicles like Taxis are not being included in this category.

10. As far as eastern side of Delhi is concerned, where traffic needs to travel towards East India, while there may be no direct road, the imposition of this pollution compensatory charge, will provide economic viability for competing roads to be built. It is also to be noted that commercial vehicles pay toll across the length of the country and therefore, the imposition of this charge is also reflective of the costs of road travel as well as the costs of pollution caused by this travel.
11. In other words, It is submitted that in order to protect the rights of the residents of the National Capital Territory of Delhi under Article 21, the Government is under a Constitutional duty to recover a sum not less than Rs 600 from smaller goods vehicles (LCVs and 2-axle trucks) and 1200 from every 3-axle and above commercial vehicle entering the NCT and using the roads of the NCT.
12. It is submitted that all the traffic uses these roads for commercial purposes but inflicts serious damage on the health of all the residents of the Territory and particularly, on children as well as senior citizens who are of vulnerable age.
13. This report of the Environment Pollution (Prevention and Control) Authority (EPCA) points out that the estimation of daily commercial traffic by MCD may be a gross underestimation. MCD records suggest that roughly 22,628 commercial heavy vehicles (LCVs and above) enter daily through the 9 main entry/exit points (which account for roughly 70 per cent of the commercial traffic entering and leaving the city) whereas the study done by a private agency, for the Centre for Science and Environment, finds that over 38588 commercial heavy vehicles enter the city daily. It is obvious that the private

agency given the contract to collect this toll is either unable to keep track, or worse chooses to collect toll without accounting for it. However, given that each vehicle emits a large load of pollutant, this difference in number ends up grossly underestimating the impact on health of citizens of Delhi.

14. It is submitted that it is extremely important to insist upon the trucks carrying an electronic identity which can be read electronically as they pass through the toll booths rather than collecting the toll in cash. It is submitted that this procedure is followed in almost all countries. NHAI has also strongly supported introducing the electronic payment system, called the Radio-Frequency Identification (RFID). For obvious reasons, where toll is collected by private contractors, reasons are manufactured to defend continuing with the present cash collection system.
15. It is submitted that the situation in the city of Delhi is that the load of pollution in ambient air is already many times than is recognized as being dangerous for human health. As was pointed out to this Hon'ble Court earlier, metros in other parts of the world close down when RSPM (respirable suspended particulate matter or PM10, which is particularly toxic for human health) crosses 250 ppm. Last winter, in a place like Lodhi Garden RSPM was close to 1000 ppm and the RSPM in this Hon'ble Court was found to be in the unhealthy range of 200-250 ppm.
16. It is submitted that other metros in the world are shut down; schools are given a day off and car and truck traffic stopped when pollution limits reach this level. The NCT lives with much higher levels on a daily basis even at the best of times. It is submitted that winter is fast approaching and no steps have been taken since last year, in spite of assurances to this Hon'ble Court. It has now become necessary for this Hon'ble Court to pass some orders, which will save the lives of the residents of the NCT.

17. It is, therefore, respectfully submitted that this Hon'ble Court may consider passing the following orders.

PRAYER

18. It is submitted that this Hon'ble Court may be pleased to direct the Union of India, National Capital Region of Delhi and the Municipal Corporation of Delhi to ensure that

- (a) Commercial vehicles entering the city of Delhi are required to pay a sum of not less than Rs 600 (for LCV and 2-axle) and not less than Rs 1200 (for 3-axle and above). This pollution compensatory charge will be imposed in addition to the toll charge imposed by MCD.
- (b) Direct that all collection of toll for vehicles entering Delhi be switched to the Radio-Frequency Identification (RFID) system of collection of toll on and from the 1st of December 2015.
- (c) Pass such other or further orders, as this Hon'ble Court may deem appropriate.

AND FOR THIS ACT OF KINDNESS AND JUSTICE THE PETITIONERS AS
IN DUTY BOUND SHALL EVER PRAY.

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