

Syed MANSOOR ALI SHAH and 4 others---Petitioners

Versus

**GOVERNMENT OF PUNJAB, through Housing, Physical and Environmental
Planning Department, and 3 others---Respondents**

2007 C L D 533

[Lahore]

Before Syed Hamid Ali Shah, J

Writ Petitions Nos. 6927 of 1997 and 8491 of 2001, heard on 21st September, 2006.

JUDGMENT

SYED HAMID ALI SHAH, J.---This single judgment shall dispose of Writ Petitions. Nos.6927 of 1997 and 8491 of 2000 as both the petitions involve common subject matter and the relief claimed therein is also identical.

2. Lahore is the thirtieth largest city in the world, estimated to have 8 million inhabitants. The city has the capacity to absorb outsiders and for that reason its population is growing faster than other cities. It was once known as 'City of Gardens' then it became 'City of colleges' and now it is largely thought of as cultural centre of Pakistan. It is most accessible city of Pakistan, thus faces ever increasing traffic problems. It has very high levels of air pollution and smog, mostly due to motor vehicles emission. The petitioners being conscious of the threat of vehicular pollution, have invoked the extraordinary constitutional jurisdiction of this Court, for protection of the rights of the citizens as to life, guaranteed under Articles 9 and 14 of the Constitution of Islamic Republic of Pakistan, 1973, against health hazards, created and affected due to air pollution.

3. The case of the petitioners as set out, in these petitions, is that they are residents of the Lahore City and are aggrieved of air pollution. It is contended that air pollution has severe effect on human life, specially on newly born and unborn infants. It is creating bronchial irritation, heart problems, anaemia, asthma, eye irritation and other respiratory diseases. It is asserted in the petitions that according to the Pakistan National Conservation Strategy, (conducted in collaboration with the Environmental and Urban Affairs Department and World Conservation Strategy (IUCN) 'the motor vehicles emissions account for approximately 90% of the total annual emission of Hydrocarbons, Aldehydes, Carbon Monoxide, Carbon Dioxide, Sulphur Dioxide and Nitrogen Oxide. The average Pakistani vehicle emits 20 times as much Hydrocarbon, 25 times as much Carbon Monoxide, 3.6 times as much Nitrous Oxide in grams per Kilometer, as compared to an average vehicle in the United States of America. The preliminary Carbon Monoxide survey of the city conducted by Environmental Protection Agency, Punjab

shows that the major source of air pollution in the city, is the vehicular emissions. Vehicular emissions lead to air pollution, primarily due to incomplete combustion on account of two stroke engines (Rickshaws, Motor Cycles, Scooters) and diesel engines i.e. mainly public transport in Lahore. The smoke by cars, rickshaws, wagons, buses, aeroplanes, railways etc. produce carbon monoxide, lead, nitrogen oxides, organic vapours, odours, etc. According to latest statistics the presence of Carbon' Monoxide, measured at various places of Lahore, on the average, showed the Carbon Monoxide level to be 50 P.P.M. (parts per million), above the level of Air Pollution violates of the National Environmental Quality Standards, formulated by the Environmental Protection Agency. The motor vehicles not only emit hazardous wastes but also create noise, which is unwanted and undesirable and its continuity can temporarily or permanently damage hearing a loss. High noise levels can also cause psychological disorder, variation in blood pressure, difficulty in respiration and changes in human behaviour. The main contributing factors in increasing noise levels are pressure horns, untuned engines, damaged silencers, over speeding and excessive use of first two gears. It is further asserted that according to rule 163 of the Motor Vehicles Rules, 1969, the owner of the motor vehicle is required by law to maintain the vehicle, so that it does not cause damage or annoyance to any other persons or properly or endanger the safety of any other users of the road; fitted with an efficient appliance for the purpose of preventing the emission of sparks or grit etc. While the Regional Transport Authority, established under Motor Vehicles Ordinance, 1965, is issuing Fitness Certificates to Transport vehicles, which do not meet the required standards. This was result of collusion between the Motor Vehicles Inspectors and owners of vehicles. With this backdrop of the matter, the petitioners prayed that the respondents be directed to act strictly in accordance with law and immediately arrest the growing problem of Air Pollution, lest it is too late.

4. The respondents in their written reply and parawise comments admitted the facts narrated in the petitions. It was, however, stated that they are making all efforts to cure air pollution. My learned brother Mr. Muhammad Sair Ali, J., during the course of proceedings on 24-1-2003 constituted Lahore Clean Air Commission (shall now be referred as Commission) comprising of:

- (1) Dr. Parvez Hassan, Advocate, Chairman.
- (2) Advocate General, Punjab, Co-Chairman/Member.
- (3) Syed Mansoor Ali Shah, Advocate/Petitioner/Facilitator and Coordinator.
- (4) District Coordination Officer (DCO), Lahore.
- (5) Deputy Attorney-General of Pakistan.
- (6) Naib District Nazim, Lahore,
- (7) Director General Environment Protection Department, Lahore.

(8) Hammad Naqi, Director (Environment Pollution Unit), World Wide Fund for Nature (WWF), Lahore.

(9) Chief (Transport) Planning and Development Department, Lahore.

(10) Muhammad Nazim, Associate Professor, Institute of Management and Technology (ILM), Lahore.

(11) Deputy Inspector General, Traffic Police, Lahore.

(12) Erum Aftab, Environmental Scientist and Member, Pakistan Environmental Lawyer Association (PELA).

(13) Osama Sidique (Advocate), Minto and Mirza (Advocates) (now Head of Department, School of Law and Policy, LUMS, Lahore).

(14) Anjum Jawaid Khan, Member APCEL, Environmental Lawyer, Lahore.

(15) Nihal Asghar, SEAL, Lahore (Co-opted).

(16) Saigols Qingqi Motors Ltd. (through Mr. Li Shu) (Joint representative of Dawood Yamaha Ltd. Suzuki Motorcycles Pakistan Ltd. and Saigols Qingqi Motors Ltd. (Co-opted).)

5. The Commission was assigned the task to study and analyse, the increasing problem of vehicular air pollution and formulate a solution. The Commission started its function, on the following term of reference:--

"To submit a report on feasible and practical solutions and measures for monitoring, controlling and improving the vehicular air pollution in the city of Lahore."

6. Various functionaries of Government and Semi-Government bodies also remained associated with the proceeding including:

(1) Mian Amir Mehmood, Nazim, City District Government, Lahore.

(2) Saima Amin Khawaja, Advocate High Court, Lahore.

(3) Mr. Saleem Piracha, Business Strategy Manager, SHELL Pakistan.

(4) Dr. Shazia Khawaja, Surgeon, Ammar Medical Hospital, Lahore.

(5) Dawood Yamaha Ltd, through Yunus Dawood.

(6) Suzuki Motorcycles Pakistan Ltd. through Midhat A. Kidwai, Chairman.

(7) Atlas Honda Ltd. through Mr. Maqbool Basraa, General Manager, Human Resource and Corporate Affairs.

The Commission received certain guidelines on the issue of air pollution, held various meetings and organized "Three Day International Workshop" with the help and association of Asian Development Bank, Clean Air Initiative (CAI) Manila, City District Government Lahore, NEAP and IUCN. The recommendations were finalized with the Stake holders in the meeting dated 20-5-2005. Commission after extensive deliberation and consultation formulated following recommendations:--

(a) Ambient Air Quality (AAQ) Standards

Pakistan requires a comprehensive set of Ambient Air Quality Standards particularly for the following criteria pollutants:--

PM 10; PM 2.5; CO; Ozone (O₃); SO₂; NO_x; Lead

- (i) AAQ Standards can be immediately adopted on the lines of WHO.
- (ii) AAQ standards need to be health-based standards.
- (iii) AAQ standards for mobile and stationary sources.
- (iv) Differentiate between AAQ and emission Standards.
- (v) AAQ standards to provide for different time frames e.g. one hour, eight hours, twenty four hours and annual averages.

(B) Air Quality Monitoring

- (i) Collection and collation of existing data (as done by SUPARCO, etc.) and to make this accessible to all relevant stakeholders.
- (ii) To assess and analyse the said data for future planning and monitoring.
- (iii) Federal EPA to set up air quality monitoring stations (at appropriate locations) to ensure quality assurance and quality control.
- (iv) To build capacity within authorities.
- (v) Data dissemination strategies need to be developed by the authorities to help fore-see the issuance of health alarms in case of serious exceedance of standards.

(C) Air Quality Planning

(i) Aim of air quality management in Pakistan is to bring all pollutants within ambient air quality standards.

(ii) On the short and medium term the aim is to reduce the period of time that air quality exceeds the ambient air quality standards.

(iii) Air Quality Monitoring will provide information on the status of air quality. Based on this, interventions and targets can be set and strategies and action plans can be formulated targeting at specific pollutants.

(iv) Emission inventories and source apportionment studies are required to plan air quality strategies and actions.

(D) Emission and Fuel Standards (Cleaner Fuels)

(i) It is important for Pakistan to adopt Euro Emission Standards for vehicles so to be in line with all other Asian countries.

(ii) Considering the urgency of the air quality situation, cleaner fuels and cleaner vehicles need to be introduced in the urban centres immediately.

(E) Standards for Public Transport Buses

(i) Immediate introduction of CNG buses conforming to Euro-3 standards.

(ii) Phasing out of the existing buses in TWO years (starting 1-7-2005).

(iii) Certified conversion of the existing buses from authorized workshops. Penalty in case the certification policy is violated.

(iv) Cap age for buses is 10 years. Over-aged buses to be scrapped.

(F) Standards for Rickshaws

(Auto and Motorcycle)

(i) Introduction of new four stroke CNG rickshaws.

(ii) Phase out of the existing Rickshaws in one year.

(iii) Immediate ban on the registration of two stroke auto and motorcycle rickshaws.

(iv) Nomination of dedicated stations for procurement of pre-mix to be used by the existing two stroke rickshaws.

(G) Fiscal Incentives

(i) Viability of implementing cleaner air initiative requires financial incentives e.g., Subsidized loan, Tax waiver or reduction, differential pricing and easy repayment.

(H) Awareness raising for CNG use

(i) Design outreach programs for bus operators, 3 wheeler owner/drivers and general public.

(ii) Infrastructure Planning for CNG program. Plan adequate refilling centers.

(iii) For buses, have fast filling dedicated centers.

(iv) Need system to regulate quality of spare parts.

(v) Clearly define responsibilities of major stakeholders (owner, manufacturer, converter, inspector, Government agencies).

(I) New Vehicle Emission Standards and Corresponding Fuel Quality * for Lahore

Vehicle Category	1-7-2008	1-7-2010	1-7-2013
2-wheel	Euro II	Euro III	
Vehicle Category	1-7-2007		
3-wheel	Euro II or 4-stroke CNG.	Euro III	

Vehicles
Categories
1-7-2008
1-7-2010
1-7-2013

Cars	Euro II	Euro III	Euro IV
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Vehicle Categories	1-7-2006	1-7-2010
LCV (wagons)	Euro II	Euro III
HDV (buses)	Euro II	Euro III

*Current Fuel: Sulfur Content: Import: 0.5% Local: 1% All unleaded gasoline/petrol.

(J) In-Use Vehicle Emission Standards

2006 2W	2007* Idle 'rest Idle CO \leq 4.5%, _Idle	Revise as per new vehicle emission standards should lead to formal adoption of
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3W	HC record. Idle Test Idle Co \leq 4.5%, Idle HC record:	HC standards. Revise as per new vehicle emission standards should lead to formal adoption of I-IC standards
Car	Idle Test Idle Co \leq 4.5%, Idle HC record.	Revise as per new vehicle emission standards should lead to formal adoption of HC standards
LCV Diesel	Opacity on Free Acceleration \leq 65 HSU	Introduce loaded mode test
HDV diesel	Opacity on free Acceleration \leq 65 HSU	Introduce loaded mode test.

Further revisions will be required after 2007 based on the introduction of tighter emission standards for new vehicles.

(K) Inspection and Maintenance

Institute and strengthen I/M functions with respect to motor vehicles.

Some of the important recommendations are as follows:--

(i) Type of tests: Gasoline and CNG vehicles - idle emissions tests of CO and HC Risks

(ii) Develop test protocols to ensure tests are done correctly.

(iii) Measure HC, CO, CO₂ and O₂.

(iv) Improve accuracy requirements.

(v) In the long run switch to lambda measurements for catalyst equipped cars.

(vi) For diesel vehicles - apply Free Acceleration Smoke Tests.

(vii) Need additional test parameters for authentic tests e.g., oil temperature measurement and engine rpm measurement built into the smoke meter:

(a) Oil temperature will be used as an indication of warming up.

(b) Engine rpm will be used to ensure consistency of operation.

(viii) Introduce loaded test for diesel vehicles. More effective and accurate.

- (ix) Monitoring by private cum public sector bodies.
- (x) Institutional issues- Computerize all test data.
- (xi) Institute data management system.
- (xii) Audit plan must be worked out i.e. Test Records, Audit reports, mandatory AMC requirement etc.
- (xiii) Maintenance/calibration status of equipment.
- (xiv) Availability of trained operators.
- (xv) Vehicle Inspection Program for CNG Vehicles:
 - (a) Introduce 3rd party inspection of CNG vehicles with pre-registration safety, and emission inspection.
 - (b) Regular annual safety and emission inspection after registration.
 - (c) Specially designed checklist for inspection.
 - (d) Training and skill-building at the city level.
 - (e) Introduce CO and Nox as part of the vehicle inspection program.
 - (f) Study trips to Delhi or Dhaka to learn about best practices.

(L) Transport Planning

- (i) Promote public transport, especially Buses.
- (ii) New dedicated CNG buses.
- (iii) Re-powering existing buses into CNG.
- (iv) Increase in number of buses.
- (v) Travel demand management- improving usage.
- (vi) Infrastructure for better supply of CNG.
- (vii) Vehicle scrappage - age cap (old buses) e.g. age-10 years.
- (viii) BRT (Bus Rapid Transport) - dedicated bus lanes and pick/drop areas.

(ix) Road planning, integration of transport and land use.

(x) Financial measures (incentives or disincentives) to facilitate the above.

(M) Institutional Issues and Capacity Building

Institutional arrangements:

(i) Current institutional arrangements for air quality management in Pakistan are acceptable; emphasis to be on making it work better.

(ii) Main stakeholders in urban air quality management: Government, civil society, private sector, and academe.

(iii) Government, Federal, Provincial and District EPAs require more staff and training.

(iv) Other Government departments: police, transport department, and urban planning department need more knowledge on AQM.

(v) Civil society requires strengthening of technical knowledge on air quality (people and knowledge).

(vi) Private sector: (a) polluter, (b) service provider, air quality management capacity is in both cases limited.

(vii) Academe: number of universities offer AQM courses but require additional capacity.

7. The report was further deliberated upon by the Commission and final recommendations, suggested by the Commission, were submitted in this Court on 26-5-2005, which read as under:--

In Respect of Buses:--

Introduction of dedicated CNG or compliant to Euro-II buses for public transport conforming to Euro-2 standards.

(1) Phasing out of existing buses in two years i.e. by 2006.

(2) Certified conversion of the existing buses from authorized workshops. Penalty in case the certification policy is violated.

(3) Cap age for buses is 10 years. Over-aged buses to be scrapped.

(4) Setting up dedicated bus lanes in the existing transport planning.

In Respect of Wagons:-

- (1) Phasing out of the wagons from the Urban Centres and replace the same with buses within one year.
- (2) In routes where the plying of buses is not feasible new wagons which are Euro-II compliant be used.

In Respect of Autocab Rickshaws:

- (1) Introduction of new four stroke CNG Autocab Rickshaws in Lahore.
- (2) Phase out of the existing Autocab Rickshaws in one year from Lahore.
- (3) Ban on the registration of two stroke Autocab Rickshaws by January, 2006.
- (4) Nomination of dedicated stations for procurement of pre-mix to be used by the existing two stroke Rickshaws.
- (5) Temporary shifting/conversion to CNG on the existing two stroke Autocab Rickshaws.

In Respect of Motorcycle Rickshaws:

- (1) The use of two stroke Motorcycle Rickshaws should be progressively eliminated from Lahore within six months.
- (2) Immediate introduction of new four stroke petrol Motorcycle Rickshaws.
- (3) Introduction of new four stroke CNG Motorcycle Rickshaws within two years.
- (4) Ban on the registration of two stroke Motorcycle Rickshaws in Lahore by January, 2006.
- (5) Omination of dedicated stations for procurement of pre-mix to be used by the existing two stroke Rickshaws.
- (6) All CBU vehicles (completely built up units) imported into Pakistan shall comply with Euro-II standards with immediate effect.

In Respect of Air Quality and Fuel* Standards:

- (1) Setting, by 2006, Ambient Air Quality Standards.

(2) Setting, by 2006, vehicular emission standards and fuel standards: Short term and long term plans.

(3) New vehicle emission standards and corresponding fuel quality for Lahore.

Vehicle Category	1-7-2008	1-7-2010	1-7-2013
2-wheel	Euro II	Euro III	
Vehicle Category	1-7-2007		
3-wheel	Euro 11 or 4-stroke CNG	Euro III	

Vehicles

Categories 1-7-2008
1-7-2010
1-7-2013

Cars	Euro II	Euro III	Euro IV
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Vehicle Categories	1-7-2006	1-7-2010
LCV (wagons)	Euro II	Euro III
HDV (buses)	Euro II	Euro III

*Current Fuel: sulfur Content: Import: 0.5% Local: 1% All unleaded gasoline/petrol.

In Respect of Financial Incentives:

(1) To set up a Green Fund to incentive cleaner fuel and vehicles.

(2) To involve the financial sector through the State Bank of Pakistan in facilitating green financing for the industry

In Respect of Monitoring

(1) Priorities the establishment of Ambient Air Quality Monitoring Squads and Stations by the City District Government.

(2) Privatizing inspection and monitoring stations (such as through the oil marketing companies and manufacturers) by January, 2006.

In Respect of Capacity Building and Awareness Raising:-

(1) Capacity Building Programs by City ,District Government.

(2) Awareness raising for CNG use.

In Respect of a Standing Body to Monitor the Implementation of these Recommendations:--

It was also recommended that this Court may consider the establishment of a Standing Committee comprising of representatives from the private and public sectors to monitor and implement the above recommendations and to submit, periodically report thereon to this Court.

8. Objections, comments and views of public as well as from the stakeholders, were invited through citation published in Daily times in its print dated 7-7-2005. Pak-EPA submitted its comments on 18-7-2005, agreeing to suggestion in principles but objecting to time frame. Mr. Wasif Majeed Advocate, a Member of Lahore High Court Bar Association, gave additional suggestions without commenting on recommendations of the Commission. Communication was addressed to Federal Government through its concerned ministries, for comments, inviting their views qua the problems/difficulties likely to be faced for the implementation of recommendations. The Commission thereafter held a detailed meeting on the direction of this Court on '26-7-2005 with Provincial Environmental Protection Agency, Pakistan Environmental Protection Council, Ministry of Industries and Production and Special Initiatives, Ministry of Commerce, Ministry of Finance, HDIP, PAMA-Atlas Honda Ltd., Qingqi Motors, DCO, CDGL and Dawood-Yamaha; the recommendations were examined in the meeting. A few suggestions were sent by Pak EPA over the net subsequently, but of no avail as same were already incorporated in the Final Recommendation.

9. Mr. Pervaiz Malik, learned Deputy Attorney General, representing Federal Government, suggested on 5-9-2005 for another notice to be published, resultantly, public notices were published afresh. Notices were issued to various ministries once again, along with the report/recommendations of the Commission. The officials of Federal Government representing Ministry of Industries and Production, Ministry of Environment, Ministry of Finance, Ministry of Petroleum and Natural Resources, Ministry of Commerce, Pakistan Environmental Protection Council and Export Promotion Bureau, attended the Court on 21-9-2005. They were asked to submit their approval, suggestion or reservation if any, on the report of the Commission. The report of the Commission was considered in a joint meeting of concerned ministries of the Federal Government. Additional Secretary (Mrs. Rukhsana Jabbar Memon) informed the Court on 17-11-2005 about the joint meeting of various ministries, wherein clean air programme was considered and found essential. She however, prayed for further time to convey the Court about acceptance or otherwise of the report of Commission. The representations of various ministries, who appeared in this Court on 29-8-2002, 19-7-2005, 21-9-2005, 25-10-2005 and 17-11-2005 conveyed the approval of recommendation of their respective ministries. Learned Deputy Attorney General remained associated with the proceedings. Provincial Government on the other hand through Environmental Protection Agency (EPA) in association with Planning and Development Department, submitted its suggestions on final recommendations, whereby the recommendations of the Commission were endorsed. Transport Department of Government of Punjab 'submitted comments, which reflect that ban had been -imposed on registration of two

stroke Rickshaws with effect from 1-1-2005, to give effect to recommendations of the Commission. Mr. Agha Nadeem, Secretary Transport, was directed to remain associated with the Commission. Consequently, he attended meetings of Commission on 29-3-2006, 8-5-2006 and 22-5-2006. He submitted report on 29-5-2006 and conveyed the following progress in pursuance of the recommendations of the Commission:--

(i) Meetings dated 8-5-2006 and 22-5-2006 were held to fine-tune the working Plan.

(ii) Transport department' has already launched the 4 Stroke CNG Motor Cab Rickshaws in 2005. The launching has encouraged 4 manufacturers, with the result that their product is already in the market.

(iii) Target date to complete Phasing out of 2 stroke Rickshaws completely from Lahore, was fixed as 31-12-2007.

(iv) A notification dated 1-1-2005 was issued by the Transport Department, in view whereof induction of new 2 stroke motor cab rickshaws was banned.

(v) The suggestion of conversion of 2 stroke into 4 stroke CNG Rickshaws, for want of effective technology was declined.

(vi) Punjab Small Industries Corporation and Punjab Provincial Cooperative Bank have been engaged for leasing out 4 stroke CNG Rickshaws, under the Chief Minister's Green Fund Scheme.

(vii) Plying of 2 stroke Rickshaws have already been banned on the Mall Road, since 17-4-2006 and schedule has been made to phase out two stroke rickshaws in ten stages, to be carried out at Jail Road, Main Boulevard Gulberg, Canal Road, Allama Iqbal Road etc.

(viii) Plans are in process to phase out wagons and convert Diesel Buses: No Diesel bus has been inducted since September, 2005.

10. Viewing the report of Transport Department and various steps taken by the Government of Punjab as consequence of recommendations, Transport Department of Government of Punjab was restrained through order dated 30-5-2006, from issuing route permits or fitness certificates to diesel buses, in the light of ban. Ban on two stroke Rickshaws/Tri-wheeler was challenged through Constitutional Petitions i.e. Writ Petition No.3941 of 2006 and Writ Petition No.16378 of 2005, on the grounds that imposition of ban on poor rickshaw owners will result into depriving them from earning their bread and livelihood. It was also urged in these petitions that introduction of four stroke rickshaw is aimed to encourage the monopoly of one manufacturer, to the exclusion of other manufacturers. Both the contentions had no force. Firstly, as four different manufacturing companies are in the process of manufacturing of four (4) stroke Rickshaws, besides the field is open for others. Secondly, Government of Punjab has announced a package to

encourage common/poor citizens to buy 4 stroke CNG Rickshaws from green fund on lease facility, at a nominal rate of mark-up. Additionally, Government of Punjab is bound by its undertaking (given in these proceedings) to extend loan to deserving applicants and in this respect preference is to be given to the affectees i.e. owners of two stroke rickshaws. Nominees of manufacturers of motor-cycle Rickshaws were directed through order dated 27-1-2005 to remain associated with working of the Commission. Consequently, they were co-opted as members of the Commission, They being stakeholder attended meetings and recommendation of this Commission, were thus finalized with their concurrence. The Commission accomplished the task assigned to it. Its recommendations have thoroughly been examined by the Federal as well Provincial Government besides other stakeholders. These recommendations have now been submitted in this Court for issuance of appropriate writ.

11. Pakistan is party to 2001 Stockholm Convention, which is a global treaty to protect human health and environment from Persistent Organic Pollution (POP). Pakistan has also joined the global community being party to 1985 Vienna Convention on Protection of Ozone Layer. Pakistan has signed the 1992 United Nations Framework Convention on Climates Change (UNFCCC). The objective of the Convention is the stabilization of green house gas concentration in the

atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Pakistan is also signatory of 1990 International Oil Pollution Preparedness, Response and Cooperation. Besides the international treaties, perseverance and protection of dignity of man is fundamental right of a citizen, guaranteed under Article 14 of the Constitution, 1973. Constitution of 1973 vide Article 9 protects, the life of person/citizen. The cases where life of citizen is degraded, the quality of life is adversely affected and health hazards are created affecting large number of people, amounts to deprivation of life, which above referred articles prohibits. A Further that nuisance caused through air pollution is punishable under sections 268 and 278 of Pakistan Penal Code. Pakistan Environmental Protection Act (Act XXXIV of 1979) has been enforced for protection, conservation, inhabitation and improvement of the environment. The redressal of grievance, voiced through these petitions, is covered under the constitutional provisions specifically Articles 9 and 14, provisions of Act XXXIV of 1979, other enactments. State functionaries are bound by contractual obligations under international treaties, to make effective measures for elimination of vehicular pollution.

12. I am not inclined to burden this judgment by referring to the various judgments of superior Courts of the country, where scope and-ambit of jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, was considered and it was observed therein that Constitution confers vast powers on Courts to issue appropriate directions for the enforcement of fundamental rights guaranteed by the Constitution, yet the case of Ms. Shehla Zia and others v. WAPDA PLD 1994 SC 693 needs mention, wherein the Honourable. Supreme Court has held as under:

"Article 9 of the Constitution provides that no person shall be deprived of life or liberty save in accordance with law. The word 'life' is very significant as it

covers all facts of human existence. The word 'life' has not been defined in the Constitution but it does not mean nor can be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. A person is entitled to protection of law from being exposed to hazards of electromagnetic fields or any other such hazards which may be due to installation and construction of any grid station, any factory, power station or, such like installations. Under the common law a person whose right of easement, property or health is adversely affected by any act of omission or commission of a third person in the neighbourhood or at a far off place, he is entitled to seek an injunction and also claim damages, but the constitutional rights are higher than the legal rights conferred by law, be it municipal law or the common law. Such a danger is depicted, the possibility of which cannot be excluded, is bound to affect a large number of people who may suffer from it unknowingly because of lack of awareness, information and education and also because such sufferance is silent and fatal and most of the people who would be residing, under or at a dangerous distance of the grid station or such installation do not know that they are facing any risk or are likely to suffer by such risk. Therefore, Article 184, can be invoked because a large number of citizens throughout the country cannot make such representation and may not like to make it due to ignorance, poverty and disability. Only some conscientious citizens aware of their rights and the possibility of danger come forward."

August Court in the referred case held further:--

"The word 'life' in terms of Article 9 of the Constitution is so wide that the danger and encroachment complained of would impinge fundamental right of a citizen. In this view of the matter, the petition under Article 184(3) of the Constitution of Islamic Republic of Pakistan, 1973, is maintainable.

It was also observed by the Court:--

"The word 'life' in the Constitution has not been used in a limited manner. A wide meaning should be given to enable a man not only to sustain life but to enjoy it."

14. (sic) Pollution of environment, caused by smoke emitting vehicles, traffic muddle came up before the august Supreme Court of Pakistan in Human Rights Petition No.4-K of 1992, 1996 SCMR 543, where the apex Court on examination of reports, submitted by the different H.R. activists, through interim order gave number of directions for taking effective and remedial steps, to streamline the process of checking as first step in eliminating the pollution from Karachi, Lahore, a city of gardens,, colleges and rich cultural heritage, is now faced with grave threat of vehicular pollution, which is creating health hazard to its inhabitants, affecting adversely their quality of life. Vehicular pollution needs elimination, which can be achieved by following the manner opted by the august Court in the above referred judgment 1996 SCMR 543. Appropriate writ for

implementation of recommendations of the Commission is required, which is accordingly issued.

15. The City District Government, Lahore approved and stood behind the recommendations, with the assurance to implement the same in letter and spirit, Secretary, Transport and other departments of the Provincial Government including Planning and Development Department have consented to implement these recommendations. The representatives of various Federal Ministries, who appeared before this Court were asked to either give their consent/approval on the recommendations or submit objections or difficulties, if any, in implementation of the recommendations. None has filed objection or counter-proposals. The question of issuance of writ jurisdiction in the instant proceedings is not in issue as suggestions and recommendations of the Commission were finalized and approved by associating the stakeholders like manufacturers of Rickshaws, Motor-cycles etc. on one hand and various bodies of the Federal as well as Provincial Governments on the other hand.

15-A. The recommendations which remained uncontested by all concerned including Federal Government of Pakistan, Government of Punjab, concerned authorities and bodies. The writ is thus issued with the following directions:--

All the concerned authorities, departments, in particular the Transport Department, the City District Government, Lahore, EPD (Punjab), Federal EPA to strictly implement the following:

In Respect of Buses:--

- (1) Introduction of dedicated CNG or compliant to Euro-II buses for public transport conforming to Euro-II standards.
- (2) Phasing out of existing buses in two years i.e. by December, 2007.
- (3) Certified conversion of the existing buses from authorized workshops, penalty in case the certification policy is violated.
- (4) Cap age for buses is 10 (ten) years. Over-aged buses to be scrapped. Only those buses be permitted to ply on roads, which are in perfect condition, after the lapse' of 10 years period.
- (5) Setting up dedicated bus lanes in the existing transport planning.

In Respect of Wagons:--

- (6) Phasing out of the wagons from the Urban Centres and replace the same with mini buses.

(7) In routes where the plying of buses is not feasible new mini buses or wagons, which are Euro-II compliant be used.

In Respect of Motorcab/Autocab Rickshaws:-

(8) Introduction of new four stroke CNG Motorcab/Autocab Rickshaws in Lahore.

(9) Phase out of the existing Autocab Rickshaws from Lahore by December, 2007.

(10) Strictly enforce the existing ban on the registration of two stroke Autocab Rickshaws imposed since January, 2005.

In Respect of Motorcycle Rickshaws: -

(11) Strictly enforce the existing ban on the registration of two stroke Motorcycle Rickshaws in Lahore imposed since January, 2005.

In Respect of Air Quality and Fuel Standards:--

(12) Setting, by 2007, Ambient Air Quality Standards.

(13) Setting, by 2007, Vehicular Emission Standards and Fuel Standards. Short term and long term plans.

(14) New vehicle emission standards and corresponding fuel quality* for Lahore.

Vehicle Category	1-7-2008	1-7-2010	1-7-2013
2-wheel	Euro II	Euro III	
Vehicle Category	1-7-2007		
3-wheel	Euro II or 4-stroke CNG	Euro III	

Vehicles Categories			
1-7-2008			
1-7-2010			
1-7-2013			
Cars	Euro II	Euro III	Euro IV

Vehicle Categories	1-7-2006	1-7-2010
LCV (wagons)	Euro II	Euro III
HDV (buses)	Euro II	Euro III

*current fuel: sulfur content: import: 0.5% local: 1% all unleaded gasoline/petrol.

In Respect of Financial Incentives:

(15) To effectively use the existing Green fund to incentive cleaner fuels and vehicles.

In Respect of Monitoring:.

(16) Priorities the establishment of Ambient Air Quality Monitoring Squads and Stations by the City District Government within a year.

(17) Make effective measures for inspection and monitoring stations within a-year,

In Respect of Capacity Building and Awareness Raising:-

(18) Capacity Building Programs by City District Government.

(19) Awareness raising for CNG use.

16. Standing Body of the Commission, comprising of Dr. Parvez Hassan, Advocate (Chairman); Syed Mansoor Ali Shah, Advocate/Petitioner (Facilitator and Coordinator), District Coordination Officer (DCO), Lahore, Hammad Naqi, Director (Environment Pollution Unit), World Wide Fund for Nature (WWF), Lahore and Nihal Asghar, SEAL, Lahore, is constituted to remain operational till the accomplished of the Commission, approved herein above from Lahore. The Transport Department and the City District Government Lahore shall regularly report their progress to the Standing Body and keep them involved in their deliberations and plans. In case the Standing Body is of the view that the recommendations are not being followed or are being deviated from, they are free to approach this Honourable Court for appropriate orders.

17. The efforts made by all concerned are appreciated.

18. Disposed of in the above terms.

S.M.B./M-746/L

Order accordingly.