IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.11.2020

PRONOUNCED ON : 24.11.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.NO.11212 OF 2020

T.Ramachandran ...Petitioner

Vs.

1. The Secretary,
Home (Transport) Department,
State Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2. The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai - 600 005.

3. The Chairman,
Tamil Nadu Pollution Control Board,
Guindy,
Chennai 600 032.

4. Manatec Electronics Pvt Ltd,
C-22& 23, Industrial Limited,
Thattanchavadi,
Puducherry - 605 009 ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned circular of the 2nd respondent vide R.No.50166/C3/2019 dated 12.03.2020 and to quash the same and further to direct the 2nd respondent to entertain the emission testing machines which are certified in accordance with the act and rules.

For Petitioner : Mr.S.Govindaraman

For Respondents: Mr.Vijay Narayan
Advocate General
Assisted by
Mr.K.Parameswaran
Government Advocate
for R1 and R2
Mr.N.Manoharan
Standing counsel
for R3
Mr.V.Karthick
Senior Counsel
Assisted by N.Damodharan
for R4

ORDER

The present writ petition has been filed challenging the circular issued by the 2nd respondent dated 12.03.2020 and for a consequential direction to the 2nd respondent to entertain emission testing machines, which are certified in accordance with the Motor Vehicles Act and Rules.

2. The case of the petitioner is that he is in transport industry and engaged in goods carriage business. The further case of the petitioner is that he is in the process of establishing a testing station for conducting smoke emission level and carbon monoxide level for motor vehicles. According to the petitioner, the testing station must be duly authorized by the 2nd respondent before operating the testing station.

3. The further case of the petitioner is that an application must be submitted before the 3rd respondent and the 3rd respondent must certify the same and the applicant must undergo training Programme conducted by the 3rd respondent. This certificate issued by the 3rd respondent must be enclosed along with the application and submitted to the 2nd respondent for authorization. According to the petitioner, there are about 12 companies who are manufacturing the equipments and which can be used in the testing station. The equipments manufactured must in turn be certified by the testing agencies provided under the Central Motor Vehicles Rules. The details of the test and the certificate issued by the testing agencies are uploaded in the Vahan Portal for the verification of the emission of the vehicles as per the Act and Rules made there under.

4. The grievance of the petitioner is that the 2nd respondent has issued the impugned circular to all the registering authorities to the effect that these authorities must entertain the emission testing machines distributed by the 4th respondent and thereby, the 2nd respondent is indirectly promoting the equipments supplied by the 4th respondent company. Aggrieved by the same, the present writ petition has been filed challenging the impugned circular.

5. The 1st and 2nd respondents have filed a counter affidavit in this writ petition and the relevant portions in the counter affidavit are extracted hereunder :-

> 6. With regard to averments made in paragraph 6 of the affidavit, it is submitted that, the allegation made by the petitioner that, the 2nd respondent has issued circular R.No.50166/C3/2019 dated 12.03.2020 paving way for promoting the equipment of the 4th respondent is factually incorrect and has been made by suppression of facts. The Ministry of Road Transport & Highways has opined to explore the feasibility of establishing PUC centers at all the authorised service centers of OEMs. Also, The Insurance Regulatory and Development Authority (hereinafter referred to as "IRDA") in its circular Ref: IRDA/NL/CIR/MISC/215/08/2020 dated 20.08.2020 has made the requirement for PUC certificate mandatory at the time of renewal of Insurance of vehicles. Till date, only transport vehicles were mandatorily checked for emission under control before issuance of Fitness Certificate. Now, since valid PUC certificate is mandatory for renewal of insurance, all vehicles including Non-Transport Vehicles require to be checked for emission levels and PUC certificates are required to be issued. Presently, there are 12,99,655 Transport vehicles and 2,95, 09,863 Non-Transport vehicles registered in the State of Tamil Nadu. However, at present, there are only 392 Emission Testing Centers in the State of Tamil Nadu. For efficiently implementing the orders of the Hon'ble Supreme Court of India, dated 10.08.2017 in W.P(C) No.13029/1985 and to curb the excess pollution levels, the 2nd respondent has issued instructions in R.C.No.50166/C3/2019 dated 19.03.2020 to the all Regional Transport Officers to explore possibilities of establishing Emission Testing centers in all the manufacturers/their authorised dealers service stations with the Emission Testing equipment linked with VAHAN database and approved by the Transport department.

7. It is submitted that, the 2nd respondent herein, is the Competent Authority to authorise Emission Testing Centers in the State of Tamil Nadu and is the key stakeholder in successfully implementing the provisions laid down in the Motor Vehicles Act and Rules, there under with respect to the establishment and operation of Emission Testing Centers in the State. Accordingly, the 4th respondent, being an approved manufacturer of Emission Testing Equipment had submitted its samples, Type Approval certificate (TAC) and Conformity of Production (COP) certificate issued by ARAI (Automotive Research Association of India), a testing agency authorised by the Government of India for issuing TAC and COP for Emission Testing Equipment. The 4th respondent brought to the knowledge of this 2nd respondent, regarding the possibility of Emission Testing Centers to be licensed with duplicate Emission Testing Equipment. The emission testing equipment manufacturers are located in different parts of the Country and they obtain approval from authorised testing agencies such as Automotive Research Association of India, International Centre for Automotive Technology, etc. Not all manufacturers will be able or interested to market their products in all the States and Union Territories in India. This provides opportunity for miscreants to sell duplicate emission testing equipment in the name of manufacturers approved by authorised testing centers.

8. It is submitted that, in the present procedure for application for establishing emission testing center online through VAHAN portal, the applicant is provided with drop down list for selecting the manufacturer, make and model of the emission testing equipment. The applicant has to manually enter the "Serial Number" of the emission testing equipment. The application is submitted to the 2nd respondent for authorization. In this procedure, there is no provision for either altering the manufacturer of the emission testing equipment about the use of his brand or the 2nd respondent to verify whether the emission testing equipment was originally manufactured by the manufacturer approved by authorized testing agencies.

9. It is submitted that, after establishment of the Emission Testing Center, the emission testing equipment manufacturer or its authorised personnel is required to provide continuous Annual Maintenance Contract (AMC) and perform calibration of the emission testing equipment once in every 6 months during the

entire period of operation of such emission testing centre. It is, therefore, required for any emission testing equipment manufacturer, approved by authorised testing agencies, to submit details such as TAC (Type Approval Certificate) and COP (Conformity of Production) certificates, samples, Distributor, Dealer and service network in the State of Tamil nadu etc,. And obtain an approval from the 2nd respondent. In order to enable the 2nd respondent, to ascertain that, only equipment manufactured by the approved manufacturer are authorised and are being used in Emission Testing centers in the State of Tamil nadu. The 4th respondent also agreed to provide Equipment Certificate with security features such as hologram and QR code generated online from manufacturer's web portal which can be verified online by the 2nd respondent to ascertain the genuineness of the emission testing equipment before authorising the respective emission testing center. This level of accountability and efficiently in verifying the genuineness of the testing equipment is possible only when the approved emission testing equipment manufacturer submits all necessary documents including Equipment Certificate with security features such as hologram and QR code generated on-line from the manufacturer's web portal for all the emission testing equipments manufactured and sold by the respective manufacturers.

10. It is submitted that, after duly verifying the certificates, other relevant documents and the samples, the 2nd respondent had issued the Circular R.No.50166/C3/2019 dated 12.03.2020. However, contrary to the allegation made by the petitioner, in the said circular, it has been clearly stated that all the registering authorities are instructed to entertain the emission testing machines manufactured by the 4th respondent as one among the manufacturers /companies in the relevant field who fulfill all the required provisions of the Motor Vehicles Act / Rules in setting up emission testing centers in service centers of OEMs and Fuel filing stations across the State of Tamil Nadu. Subsequently, two other manufacturers who have been duly authorised by the testing agencies,n amely M/s.SEMZY AUTOMOTIVE AND GARAGE PRODUCTS PRIVATE LIMITED and M/S.AIR VISOR TECHNOLOGIES PRIVATE LIMITED have submitted their request letters dated 10.06.2020 and 17.07.2020, respectively along with the above mentioned documents and the 2nd respondent has issued circulars dated 10.06.2020 and 23.07.2020

instructing the Regional Transport Officers to entertain the emission testing equipments manufactured by the said companies as one among the manufacturers / companies in the relevant field who fulfill all the required provisions of the Motor Vehicles Act/ Rules. In all the above said circulars, it has been clearly specified that The list of approved manufacturers will be intimated from time to time. The petitioner has conveniently suppresed the facts and has raised the allegation that, the circular issued by the 2nd respondent mandates to consider the equipment manufactured by 4th respondent alone, which is baseless, factually incorrect and contrary to the facts of the case. The 2nd respondent herein is the nodal agency in implementing the integration of PUC centers with VAHAN database and hence, it is required for the manufacturers of the Emission Testing Equipment to submit the Certificates (TAC and COP) obtained by them from the approved testing agencies and the details such as Equipment Certificate, AMC Certificate, Calibration Certificate, etc of emission testing equipment manufactured and sold by them which can be verified online by the 2nd respondent before authorising the same, to curb duplicate products and for maximum accountability and effective implementation of the emission testing centers in authorised service stations of OEMs and petrol pumps in the State of Tamil Nadu. It is, respectfully submitted that, there is no kind of empanelment with any additional criteria for any of the approved manufacturer of emission testing equipment to market their product in the State of Tamil Nadu. It is respectfully submitted that, the procedure is adopted for any of the approved manufacturer of emission testing equipment to submit their documents and follow the procedure so as to ensure that no emission testing center is authorized with duplicate equipment or documents. This procedure is adopted for the manufacturers of the emission testing equipment and nor for the individuals applying for emission testing center. Further, the petitioner himself has stated that, he merely has a desire to set up an Emission Testing Centre and has not made any application till date. Therefore, the writ petition is filed prematurely. The petitioner needs to make an application in Form EUCCA to the 2nd respondent along with fee as specified in Rule 116-B(2) of the Tamil Nadu Motor Vehicles Rules 1989, and the 2nd respondent shall consider the same based on the recommendations of the Committee represented by the officials of the

Transport Department and the Tamil Nadu Pollution Control Board and pass necessary orders. The petitioner, if aggrieved by the order of the 2nd respondent, may appeal to the Government as per the provisions specified in the Rule 116-B(6) of the Tamil Nadu Motor Vehicles Rules. Therefore, the claim made by the petitioner that, no appropriate remedy is available in law and that the petitioner is constrained to approach this Hon'ble Court is false and contrary to the facts of the case. Hence, the contentions are denied.

11. With regard to the averments made in grounds (a) & (b), of the affidavit, it is submitted that, the second respondent is the State Transport Authority and State Transport Commissioner and having jurisdiction under the Motor Vehicles Act and Central Motor Vehicles Rules and Tamil Nadu Motor Vehicles rules. Hence, this ground is denied and the circular issued by the 2nd respondent is valid under law and not liable to be quashed by this Hon'ble Court. It is further, submitted that the petitioner is complaining against the sale of the 4th respondent's equipment for emission testing center through this writ petition. Hence, the writ petitioner may be imposed with appropriate cost by this Hon'ble Court.

6. The 3rd respondent has also filed a counter affidavit in this case. This relevant portion in the counter affidavit is extracted hereunder :-

5. I submit that the answering Respondent, as per Rule 116-A of the Tamil Nadu Motor Vehicles Rules 1989 is authorised to conduct test for issuance of 'Pollution Under Control' certificate. Rule 116-B of the Tamil Nadu Motor Vehicles Rules 1989 deals with the issue of Authorized Testing Station and Testing Certificate. It is submitted that this Respondent conducts training for operational and use of emission testing equipment's for both diesel and petrol driven vehicles. In this regard, hands on training are provided to the trainees and exposure in different make and models of Emission testing equipments. After completion of the said training, this Respondent provides to the participants a Certificate for participation in the training. It is pertinent to mention that the 3rd respondent does not recommend any emission testing equipments entrepreneurs. The list of candidates engaged in training for the year 2020 under Rule 116 A is 127 and number of testing centres

approved under Sub Rule of 7(b) of the Rule 116 B is 69, and the same is enclosed in the typed set of documents filed by this respondent.

7. The 4th respondent has also filed a counter affidavit and the relevant portions are extracted hereunder:-

> 5. I state that the 4th respondent was initially engaged in the manufacture of industrial shaft alignment and later diversified to manufacturing of automotive garage equipment design since 1991. I further state that the 4th respondent company is an ISO 9001:2015 certified organization and has been a pioneer in the field of manufacturing of automotive equipment's for the past 3 decades.
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> 6. I state that 4th respondent has many leading automobile companies as par of its clientele and has won many prestigious awards over the years. I further state that the 4th respondent is also engaged in the manufacture of emission testing equipment and has been recognised by the Government of India.
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> 7. I state that emission testing equipment manufactured by the 4th respondent are subjected to approval by the Automotive Research Association of India (ARAI) and international centre for Automotive Technology (ICAT) and are required to comply with the provisions of the Motor Vehicles, Act and the rules made thereunder.
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> 8. I state that the Ministry of Road Transport & Highways had issued instructions dated 01.10.2018 vide letter No.RT.11021/47/2014-Mvt. to mandatorily link the emission data with VAHAN database with effect from 01.04.2019.
>
> 9. I state that in the State of Tamil Nadu, the 2nd respondent is the authority competent to issue license to persons desirous of commencing an emission test centre. I further state that the license is issued subject to the satisfaction of conditions prescribed under the Motor Vehicles Act.
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> 10. I state that as a common practice, many testing centers were using duplicate emission testing equipment and were issuing fake emission certificates. I further state that fake certificates were being issued by many centres, without even the vehicles being physically brought for testing. I further state that it was possible using the duplicate equipments to alter the vehicle number and alter the emission levels.
>
> 11. I state that it was found many a times that duplicate emission testing machines bearing the name of the 4th respondent and its competitors were being used to issue fake emission certificates. I further

state that all the authorities concerned, were trying to find ways to tackle the menance of fake certificates.

12. I state that in order to curb the issue of fake certificates using fake equipment, the 4th respondent had started issuing equipment certificates with state of the art security features such as, scanning of QR code ad sticking of Hologram. I futher state that the QR code in the equipment, can be scanned by the authorities concerned to verify the genuineness of the equipment.

13. I state that to obtain/renew for an emission testing center from the 2nd respondent, testing equipment needs to be purchased from approved manufacturers such as the 4th respondent and its competitors. I further state that testing centers who possess equipment's manufactured from the approved manufacturers alone would be eligible to set up an emission testing center, subject to the satisfaction of the other prescribed criteria.

14. I state that the State of Tamil Nadu had proposed to open more emission testing centers as the number of testing centers were grossly inadequate for the number of vehicles in use.

15. I state that in order to help the State Government to curb the menance of duplicate emission certificates, the 4th respondent had approached the 2nd respondent vide requisition letter dated 12.02.2020, to empanel the 4th respondent company as one of the approved manufacturers.

16. I state that the 2nd respondent vide order dated 12.03.2020, had instructed the registering authorities to entertain testing machineries manufactured by the 4th respondent as one among the manufacturers for the purpose of issuing an emission testing center license.

8. Heard Mr. R. Subramaniam, learned counsel appearing on behalf of the petitioner, Mr. Vijay Narayan, learned Advocate General appearing on behalf of respondents 1 and 2, Mr.N. Manoharan, learned Counsel appearing on behalf of 3rd respondent and Mr.V.Karthick, learned Senior Counsel appearing on behalf of 4th respondent.

9. The main issues that arises for consideration in the present case are:-

(a). Whether the petitioner has the locus standi to challenge the circular issued by the 2nd respondent and whether he can be considered as a 'person aggrieved' to challenge the impugned circular ?

(b). Whether the 2nd respondent has the power and jurisdiction under the Motor Vehicles Act and Rules thereunder to issue the impugned circular ? and

(c). Whether the impugned circular of the 2nd respondent indirectly promotes only the equipments manufactured by the 4th respondent and thereby, it is an arbitrary exercise of power?

10. This Court will now take the 1st issue for consideration. A writ petition under Article 226 of the Constitution of India is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the petitioner that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement on the basis of which Writ jurisdiction is resorted to. The words 'person aggrieved' does not include a person who suffers from a psychological or an imaginary injury and it also does not take within its fold a man who is disappointed of a benefit which he might have received if some other order has been made. A 'person aggrieved' must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongly deprived him of something, or wrongfully refused him something, or wrongfully affected his title to something. The locus standi of a person to invoke writ jurisdiction is normally tested by seeing whether the petitioner's personal or individual right has been affected by any order or action of the State or instrumentality of a State covered under Article 12 of the Constitution of India. A third person having no concern with the case at hand, cannot claim to have any locus standi to raise any grievance whatsoever. The exception to this general rule will arise only in cases of issuing a Writ of Habeas Corpus or a Writ of Quo Warranto or a Writ petition filed in the nature of Public Interest Litigation.

11. This fundamental principle that has evolved through a line of decisions of the Hon'ble Supreme Court and various High Courts, should be borne in mind by this Court. Useful reference can be made to the judgement of the Hon'ble Supreme Court in [Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and others] reported in 2013 4 SCC 465 and also the division bench judgement of this Court in [P.H.C.M.Gandhi, President, Rica Employees Union (AITUC) Vs. The Chairman, Board of Management of the Academy of Prisons and Correctional Administrations, Thorapadi, Vellore - 631 002, Tamil Nadu and others] reported in 2017 2 MLJ 1.

12. The specific case of the petitioner as pleaded in the affidavit filed in support of the Writ Petition is that he is engaged in goods carriage business and he is having plans to

establish a testing station for conducting test of smoke emission level and carbon monoxide level for motor vehicles. Therefore, the admitted case of the petitioner is that there is no existing testing station for the petitioner and it is only in the realm of a future plan which may or may not take place. Therefore, strictly speaking, the petitioner is a rank 3rd person insofar as the issue in hand is concerned and he cannot claim to have any locus standi to raise any grievance whatsoever. The petitioner will not fall within the category of an 'aggrieved person' since on the day when this petition was filed, he did not suffer any legal injury and there was no breach of any statutory duty on the part of the authorities towards the petitioner. In short, the petitioner is a stranger having no right whatsoever to intervene with the circular issued by the 2nd respondent.

13. As an established practice, where the Court finds that the writ petitioner does not have the locus standi to maintain a Writ petition, the Writ petition is thrown out on that ground alone without going into the merits of the case. However, in this case, the petitioner gave an impression to this Court as if the 2nd respondent is misusing his power and promoting the equipments manufactured and distributed by the 4th respondent company and on that ground, this Court had stayed the operation of the impugned circular at the time of admitting the Writ petition. Therefore, this Court wants to dispel this impression created by the petitioner and hence, this Court is inclined to go into the merits of the claim made by the petitioner and give a finding to the other two issues raised in the present Writ petition.

14. The only issue raised by the learned counsel for the petitioner during his arguments is that the 2nd respondent does not have any jurisdiction to empanel the manufacturers, who supply the equipment and the 2nd respondent can only ensure whether the testing agencies have equipments enabling the linking with Vahan Portal and whether such equipment is duly certified by the agencies provided under the Central Motor Vehicles Rules. Therefore, the 2nd respondent ought not to have issued instructions to the registering authorities directing them to entertain a particular product of a particular company.

15. The counter affidavit filed by the 1st and 2nd respondents shows that there are nearly 12,99,655 transport vehicles and 2,95,09,863 non transport vehicles registered in the State of Tamil Nadu. There are only 392 emission testing centers in the State of Tamil Nadu. The Insurance Regulatory and Development Authority (IRDA) through circular dated 20.08.2020, has made the requirement for Pollution Under Control (PUC) certificate mandatory at the time of renewal of insurance of

vehicles. This has now resulted in all the vehicles, whether transport or non-transport vehicles, to be checked for emission levels for getting the PUC certificates.

16. The Hon'ble Supreme Court was also deeply concerned with the dangerous levels of pollution emitted by the vehicles and hence, directions have been issued from time to time to curb the excess pollution levels. The order passed by the Hon'ble Supreme Court on 10.08.2017, clearly shows that an advisory should be issued to all the State Transport Departments all over the country for mandating PUC centers at every fuel station. Pursuant to these directions, the 2nd respondent has also issued instructions to all the Regional Transport Offices through letter dated 19.03.2020 to explore possibilities of establishing emission testing centers in all the manufacturers/their authorized dealer service stations with the emission testing equipments linked with Vahan database and approved by the transport department. It is an admitted case that the 2nd respondent is the competent authority to authorize emission testing centers in the State of Tamil Nadu and is the key stake holder to successfully implement the provisions laid down in the Motor Vehicles Act and Rules, thereunder.

17. Rule 116 of the Central Motor Vehicles Rules, 1989 provides for the test for smoke emission level and carbon monoxide level for motor vehicles. Rule 116(3) deals with the equipments to be used in the testing stations which requires the approval of the agency referred to in Rule 126 or by the National Environmental Engineering Research Institute (NEERI), Nagpur. In this case, the emission testing equipments manufactured by the 4th respondent has been approved by the agency referred to in Rule 126 viz., Automotive Research Association of India (ARAI).

18. At this juncture, it will be relevant to take note of Rule 116-B. For proper appreciation, the rule is extracted hereunder:

> 116-B, Authorised Testing Station and Test Certificate. (1) No person in charge of a testing ' Station shall engage in testing motor vehicles for smoke emission level and carbon monoxide level for the purpose of issuing a test certificate as specified in sub-rule (1) of rule 116 of the Central Motor Vehicles Rules, 1989, or otherwise publicly undertake to issue such a Certificate unless such testing station is duly authorised by the Transport Commissioner under sub-rule (1) of rule 116-A.
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> Any person desiring to seek authorisation to his testing station under sub-rule (1) of rule 116-A shall make an application in Form EUCCA (Emission under

Control Authorization Application) to the Transport Commissioner along with the fee specified in the Table under rule 132, and a certificate issued by the authority authorized by the Tamil Nadu Pollution Control Board to the effect that the applicant possesses equipment in good working condition for the purpose, of conducting the test for smoke emission level and carbon monoxide level for Motor Vehicles and certificate for having attended the training programme conducted by the Tamil Nadu Pollution Control Board.
On receipt of the application under sub-rule (2) Transport Commissioner shall refer it to the Committee represented by the officials of the Transport Department and the Tamil Nadu Pollution Control Board. The Committee shall check up as to the compliance of the requirements in sub-rule (7) and make a report in form pollution emission Certificate to the Transport Commissioner.
The Transport Commissioner may, after obtaining the report from the Committee under sub-rule (3), grant an authorisation in Form Emission under Control Authorisation Application either for petrol driven vehicles or for diesel driven vehicles or for both as the case may be, to the applicant for conducting the test for smoke emission level and carbon monoxide level in his testing station and for issuing the test certificate in respect of all the vehicles including the vehicles of State Transport undertaking other than the goods Vehicles in Chennai City, subject to compliance of such conditions, as may be specified in the authorisation or to refuse to grant the authorisation. Where an authorization is refused the Transport Commissioner shall in his order furnish to the applicant the reasons for such refusal. The authorisation granted shall be valid for a period of one year and may be renewed from time to time for the like period.
(5) An application for the renewal of the authorisation shall be made in Form Emission under Control Authorisation Application with the fee specified in the Table under rule 132 not less than fifteen days before the date of its expiry:
Provided that the Transport Commissioner, may entertain an application for the renewal of the authorisation beyond the prescribed period if he is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

(6) (a) Any person aggrieved by an order of the Transport Commissioner under sub-rule (4) may file an appeal to the Government within thirty days from the date of receipt of the order.
(b) The Government shall give notice of the appeal to the Transport Commissioner and after giving an opportunity to the Transport Commissioner and the applicant to be heard in the appeal, pass such orders, as they think fit.
(7) A testing station to be authorized to conduct the test either for petrol or diesel driven vehicles shall have the following facilities namely:—
must have adequate minimum open space or shed measuring a minimum 3 metre x 8 metre exclusively for carrying out the test. The premises of the emission test station shall be either owned or hired by the applicant in his name must possess atleast one gas analyser and one smoke meter for testing either petrol or diesei driven vehicles, the equipment for that type of vehicles as specified in rule 116(3) of the Central Motor Vehicles Rules, 1989 shall be possessed. The equipment should have the approval of the NEERI (National Environmental Educational Research Institution) and other approved bodies, such as vehicles research development Establishment, Dharbad, Automotive Research Association of India, Pune and Indian Institute of Petroleum, Dehradun. The equipment should also have the technical approval of the Tamil Nadu Pollution Control Board;
(bb) must have the emission testing equipment connected to a computer with facilities of a web-camera and a printer to capture and print the Registration number of the motor vehicles and the result of the emission test':
Provided that this clause shall come into force with effect on and from the 15th January, 2004-in respect of the existing centres.
must have been equipped with minimum tools for tuning the engine; and
must have persons possessing a Motor Machanic certificate issued by Industrial Training Institute (recognised by Government) diploma or a degree holder in Mechanical/Automobile Engineering.
(8) The Transport Commissioner shall, for the purpose of granting or renewing the authorisation under sub-rule (4) maintain a register containing the following particulars, namely:—
(i) that the applicant is engaged in the business of maintenance or servicing of vehicles;

(ii) that the applicant and or his staff is holding the qualification as prescribed in sub-rule 7(d);
(iii) that the applicant has the infrastructure in his testing stations required in sub-rule (7) for carrying out the jobs connected with emission control repairs;
(iv) that the premises where the testing station has been set up is either owned or hired by the applicant in his name and has a minimum open space or shed of 3 metres x 8 metres exclusively for carrying out jobs connected with repairs of vehicles in addition to the infrastructure for keeping the equipments and office building; and
(v) that in the case of an application for renewal, the past performance and conduct of the testing station is satisfactory.
(9) (a) The authorised testing stations shall be subject to periodical inspection by the Officers of the Transport Department not below the rank of Motor Vehicles Inspector, Grade II and authorised officers of the Tamil Nadu Pollution Control Board on the maintenance, calibration and efficiency of the equipments used by such station.
(b) During the inspection, if any authorized testing station is found to have issued test certificate to any motor vehicle either without actually testing the vehicle or issued a false certificate any officer of the Transport Department/Tamil Nadu Pollution Control Board specified in term (a) shall recommend, in writing to the Transport Commissioner for suspension or cancellation of the authorization.
(10) Every authorized testing station shall—
(a) maintain a record of the vehicles tested for pollution levels indicating the following particulars namely:—
(i) the registration number of the vehicles;
(ii) the make, model and year of first registration of the vehicle;
(iii) carbon monoxide or smoke levels (as the case may be) before minor adjustment and tuning; (iv) carbon monoxide or smoke levels (as the case may be) after minor adjustments and tuning;
and
(v) whether the vehicle requires major repairs, if so, the repairs which have been recommended to the owner of the vehicle;
submit to the Transport Commissioner such other information and returns as may be called for by him;
issue to every driver or owner of the motor vehicle whose vehicle needs the emission standard laid down under rule 115(2) of the Central Motor Vehicles Rules,

1989 in addition to the test certificate Form [Computerized Pollution under Control Certificate (Petrol) or computerized Pollution under Control Certificate (Diesel)], as the case may be, as required under sub-rule (1) of rule 116 of the Central Motor Vehicles Rules, 1989, a sticker in form P.U.C.S, as prescribed by the Transport Commissioner from time to time which shall be affixed prominently on the wind screen or. body of the vehicle to show that the vehicle has been issued a test certificate;
Provided that if a vehicle fails to comply with the emission standard, a "rejection slip" shall be issued to the driver or owner of the vehicle for rectifying the defect and to present the vehicle for a fresh test within seven days from the date of such rejection. Otherwise, the owner of the vehicle shall be liable for penalty prescribed under sub-section (2) of Section 190 of the Act.

not alter its place of the authorized testing station, as mentioned in the authorization, without prior approval of the Transport Commissioner;
keep the premises of the authorised testing station at all reasonable times for inspection by any Officer specified in sub-rule (9) (a);

The Transport Commissioner shall, by notification from time to time with the prior approval of the Government fix the service charges to be collected by every authorized testing station from the Drivers or Owners as the case may be, of the vehicles including the vehicles of State Transport Undertaking other than goods vehicles in Chennai City sent for test. The service charges shall be exclusive of any minor adjustments or tuning that may be required for the vehicles.

No person in-charge of the authorised testing station shall do anything in respect of a vehicle including the vehicles of State Transport Undertakings other than goods vehicles in Chennai City sent for test, which shall amount to giving the certificate without testing the Pollution levels or after a perfunctory test; or keeping the measuring instruments needed for measurement of pollutants in an improperly calibrated state; or misguiding the driver or owner of the vehicle regarding the repairs that are necessary to be carried out to enable the vehicle to meet emission standards.

(13) (a) The Transport Commissioner, may, by an order in writing, suspend or cancel an authorization granted by him under sub-rule (4) if an authorized testing station contravenes any of the provisions of this rule or any of the conditions specified in the authorization: Provided that no such order shall be made unless—

(i) the holder of the authorisation has been given an opportunity of showing cause as to why an order of suspension or cancellation, as the case may be, should not be passed in respect of his testing station; (ii) the reasons for suspension or cancellation of an authorization are specified in the order. (b) Where an authorisation is cancelled or suspended, the holder thereof shall surrender it to the Transport Commissioner.

(14)(a) Any person aggrieved by an order passed by the Transport Commissioner under sub-rule (13) may, within thirty days from the date of receipt of such order appeal to the Government.

(b) The Government shall give notice of the appeal to the Transport Commissioner and after giving an opportunity to the Transport Commissioner and the applicant to be heard in the appeal, pass such orders as they think fit.

19. A careful reading of the above rule shows that the transport commissioner viz the 2nd respondent has been given the complete responsibility to issue certificate in order to establish a testing station and to ensure that the testing station complies with all the requirements provided under the rules. The testing stations will have to use only those equipments manufactured by companies or other undertakings which has the approval under Rule 116 and 126 of the Central Motor Vehicles Rules,1989.

20. Any person who is desirous of establishing an emission testing center will have to submit an application on-line through Vahan portal to the 2nd respondent. The applicant will have to enter the 'serial number' of the emission testing equipment in the application. The 2nd respondent will not be in a position to verify whether the emission testing equipment was originally manufactured by the manufacturer approved by the testing agencies provided under the Rule 116 and 126 of the Central Motor Vehicles Rules, 1989. However, the 2nd respondent must ensure that only such approved testing equipments are used in the testing stations.

21. It is under these circumstances, the 2nd respondent has given intimation through the impugned circular to all the registering authorities of Tamil Nadu that the 4th respondent is one of the manufacturers of the emission testing equipments and who has got the necessary approval under the Central rules and the testing centers can utilize the equipments supplied by the 4th respondent company. The 2nd respondent has made it clear that such list of approved manufactures will be intimated from time to time. It is seen from the counter affidavit as well as the documents filed before this Court that apart from the 4th respondent, two other approved manufacturers have also been duly authorized to utilize their equipments in the emission testing centers. This is a very effective way in which the 2nd respondent can ensure that the equipments utilized in the emission testing centers are duly authorized/approved by the concerned agencies under Rule 116 and 126 of the central Motor Vehicles Rules.

22. The 2nd respondent by undertaking such an exercise does not really empanel the list of manufacturers of the equipments and the 2nd respondent only ensures that the equipments utilized by the emission testing centers are satisfying the requirements of the Central Motor Vehicles Rules. Therefore, it is well within the power and jurisdiction of the 2nd respondent to intimate to the registering authorities in Tamil Nadu about such approved manufacturers. In view of the same, the impugned circular issued by the 2nd respondent is well within his power and jurisdiction and it does not suffer from any illegality. The 2nd issue is answered accordingly.

23. The impugned circular issued by the 2nd respondent does not indirectly promote the equipments manufactured and supplied by the 4th respondent company alone. The impugned circular itself makes it clear that the list of such approved manufacturers of equipments will be intimated from time to time to the registering authorities. Accordingly, the names of 2 more companies viz., M/s.Semzy Automotive and Garage Products Private Limited and M/s.AIR Visor Technologies Private Limited has been intimated to the registering authorities through circulars dated 10.06.2020 and 23.07.2020. In view of the same, the allegation made by the petitioner against the 2nd respondent that the 2nd respondent by recommending only the name of the 4th respondent company is trying to create a monopoly for the 4th respondent company alone to supply the equipments, is totally unsustainable and without any merits. The 3rd issue is answered accordingly.

24. The above discussion makes this Court come to the only conclusion that there are absolutely no merits in the present Writ petition. The petitioner apart from not having the locus standi to challenge the circular issued by the 2nd respondent, has also approached this Court by making false and unsustainable allegations against the 2nd respondent and thereby, the petitioner has virtually stalled the respondent from going ahead in certifying emission testing centers which is the need of the hour. This is an exercise which requires to be carried out in a war footing within time lines and the petitioner has put spokes in the machinery and prevented the respondents from carrying on with their statutory duties and obligations and therefore, the petitioner is liable to be burdened with payment of exemplary costs.

25. In the result, this Writ petition is dismissed and the petitioner is directed to pay costs of Rs. 1,00,000/- to the Adyar Cancer Institute (WIA), No.38, Sardar Patel Road, Adyar, Chennai 600 036 (044 - 22209150), within the period of 4 weeks from today. The petitioner is directed to file a memo along with the receipt to prove the payment of cost in the Registry. Post this case under the caption for "Reporting compliance' on 22.12.2020.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rka

To

1. The Secretary,
   Home (Transport) Department,
   State Government of Tamil Nadu,
   Fort St. George, Chennai 600 009.

2. The Transport Commissioner,
   State Transport Authority,
   Chepauk, Chennai - 600 005.

3. The Chairman,
   Tamil Nadu Pollution Control Board,
   Guindy,
   Chennai 600 032.

4.The Adayar Cancer Institute(WIA),
Sandar Patel Road,
Adayar, Chennai 36.

Copy to

The Section Officer,
Writ Posting,
High Court, Madras.

+1cc to M/s.N.Manokaran, Advocate, SR.No.37920

W.P.No.11212 of 2020

BP(CO)
KKV/07/12/2020