

## MOOT PREPOSITION

On April 8, 2015, picking up several points brought out in the 'Death by Breath' series, an ongoing investigation on the quality of air in Delhi, the Delhi Green Tribunal (DGT) issued a fresh ban on all diesel buses and trucks more than 5 years old from plying in the National Capital Region. A day after that, the Delhi government came up with a unique order of the era whereby the vehicles with odd and even registration numbers will be allowed on alternate days from January 01, 2016. It also passed an order to requisition school buses to ply as commercial, public buses after school had ended in order to encourage the commuters of Delhi to take public transport rather than rely solely on their private vehicles.

The Modern School of Environmental Studies, Delhi was plying school buses running on diesel purchased in 2005 for school purposes, and coincidentally, all the buses were of the odd number series. This order of the Delhi government proved to be the last nail in the coffin for the school.

The Modern School of Environmental Studies was not the sole victim of the ban and thus got the support of all the private schools of Delhi. And so, aggrieved by the orders of DGT and the Delhi government, the Action Committee for Unaided Recognized Private Schools, Delhi has filed a Writ petition in the Supreme Court against the DGT ban and the Odd-Even formula order of Delhi government on the following grounds:

- That taking the schools' own buses is in violation of Education Act which stipulates that school's assets cannot be put to commercial use. The school buses are the assets of the schools and allowing them for use as commercial vehicles shall amount to violation of basic principles and provisions of DSEAR (Delhi School Education Act and Rules) 1973.
- That the insurance of school buses stipulates use of buses for students only. The school buses are not permitted to be used for general public nor should the school buses be used for hire.
- That the road tax exemption also stipulates the buses shall not be used for any commercial purposes.

- That the Motor Vehicles Act prescribed a fitness test, and not the vehicle's age, to ascertain whether it should be allowed to ply or not. They also contended that the DGT could not substitute by its order what has been written in the Motor Vehicles Act, which did not put a ban on vehicles older than 5 years.
- That it is further contended that such a ban is completely arbitrary, and raised the argument that it is not the College who is responsible for making Delhi a gas chamber.

A group of public-spirited individuals also filed a Public Interest Litigation before the Supreme Court of India, Delhi. While the ban on diesel buses and trucks older than five years did not directly affect private individuals, the Odd-Even formula did, especially those who have to commute to work and also persons with disabilities and other vulnerable groups who rely on their personal means of transport to get by. The writ petition was based on allegations of the violation of the fundamental rights of the citizens – including Articles 14, 19 and 21 of the Constitution of India. They also averred that the decision was made without any informed public discussion or debate, and without paying attention to the particular circumstances of India which are different from those of other countries where this rule has previously been implemented. The individuals approached the court to issue a writ that would restrain the Delhi government from implementing the Odd-Even rule on private vehicles and cars in Delhi.

### *Issues*

*1. Whether the petition is maintainable?*

*2. Whether fundamental rights of people have been violated?*

*3. Whether the ban imposed is arbitrary in nature?*