



2024:DHC:8692-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 15392/2024 & CM APPL. 64539/2024**

GAUTAM KUMAR LAHA Petitioner

Through: Mr Praveen Agrawal and Mr.
Rohit Dhamija, Advocates
alongwith Petitioner in person.

versus

NHAI & ANR Respondents

Through: Mr. Santosh Kumar, Standing
Counsel, Ms. Sangeeta
Vazirani, Advocates for
NHAI/R-1.

Mr. Chetan Sharma, ASG, Mr.
Apoorv Kurup, CGSC, Mr.
Arnav Mittal, Mr. Gurjas S.
Narula, Mr. Shaurya Agarwal,
Ms. Nidhi Mittal, Advocates for
UOI/R-2.

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+ **W.P.(C) 15120/2024**

SIDHANT MALAIYA Petitioner

Through: Dr. Amit George, Mr. Jasmeet
Singh, Mr. Saif Ali, Mr.
Pushpendra S. Bhadoriya, Mr.
Vijay Sharma, Mr. Pranav
Menon, Mr. Saurav, Advocates.

versus

UNION OF INDIA & ANR Respondents

Through: Mr. Ankur Mittal, CGSC and
Mr. Aakash Kr. Singh, GP,
Advocates.

Mr. Santosh Kumar, Standing
Counsel, Ms. Sangeeta
Vazirani, Mr. Adithya Ramani,
Advocates for NHAI/R-2.

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Date of Decision: 06th November, 2024**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****MANMOHAN, CJ : (ORAL)**

1. Of the two petitions filed, one is a Public Interest Litigation and the other is a writ petition filed by Motorcycle enthusiasts through Mr. Sidhant Malaiya preferred under Article 226 of the Constitution of India. The PIL seeks a writ of mandamus to quash the Gazette Notification dated 14th June, 2018, bearing GSR number 571(E) and Gazette notification dated 15th January, 2021, bearing File No. NHAI/PIU-GZB/DME-I,II & III/12021/2020 issued by respondent No. 1-National Highway Authority of India (for short '*NHAI*') and also seeks direction to quash the penalty of Rs.20,000/- imposed on two (2) wheelers apart from other reliefs. The writ petition being W.P.(C) No. 15120/2024 also seeks quashing of the aforesaid notifications as also a direction to respondents to permit two (2) wheelers to ply on all the Highways and Expressways. It also seeks direction to respondent nos. 1 and 2 to frame guidelines for usage of two (2) wheelers on the National Highways and Expressways.

2. After hearing learned counsel for the petitioners at length, the following issues/challenges appear to be presented to us for consideration with regard to the jurisdictional authority of the NHAI: -

- (i) **to restrict the type of vehicles which would ply on the Expressways purportedly under the provision of section 35 of the Control of National Highways (Land and Traffic) Act, 2002 (for short 'Act, 2002').**

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- (ii) to levy/impose a penalty under section 115 of the Motor Vehicle Act, 1988 (for short 'MVA, 1988') read with section 35 of the Act, 2002 to the extent of Rs. 20,000/- for purported violation by two (2) wheelers/ three (3) wheelers, without consulting the State Government as envisaged in section 115 of MVA, 1988.
- (iii) to levy a penalty to the extent of Rs. 20,000/-, particularly when under section 177 of MVA, 1988, the maximum penalty is Rs. 500/-.

3. So far as, the issue (i) is concerned, the same has been succinctly and elaborately considered by the learned Co-ordinate Bench of this Court in *Yuvraj Francis v. Union of India & Ors., W.P. (C) 13713/2024*, decided on 17th October, 2023. To the submission of the learned counsel for the petitioner that there is no rationale or nexus in restricting the types of vehicles plying on expressway, the said judgment in *Yuvraj Francis (supra)* provides sufficient reasons. In order to appreciate the submissions of the petitioner in the context of ratio laid down by the Co-ordinate Bench of this Court, it would be apposite to extract the relevant paragraphs, which are as under:

4. Having reviewed the documents and contentions placed before us, we unequivocally acknowledge the gravity and public significance of the issues presented in this PIL. In fact, the existing regulatory framework is well-equipped to address the concerns underscored in this PIL, a sentiment echoed by the Petitioner's counsel. Nonetheless, adherence to traffic norms and road regulations is not merely a matter of law, but a paramount necessity to safeguard every individual using our expressways and to facilitate unhindered vehicular flow. Given the accelerated pace at which vehicles traverse these expressways, any oversight or disregard for the prescribed regulations could culminate in tragic consequences, manifesting in casualties, physical harm, and extensive property damage. The inherent vulnerability of slow-moving vehicles, notably two-wheelers, three-wheelers, tractors, and the like, when juxtaposed against high-speed vehicles, further amplifies this risk. The disparity in the speed rating for different



categories of vehicles complicates the ability of drivers to accurately gauge distances, presenting an additional hazard.

5. The communication issued by NHAI on 02nd September 2022 to Respondents No. 3 and No. 4 paints a revealing picture. It acknowledges the alarming frequency of accidents attributed to the ingress of slow-moving vehicles onto the expressway. The correspondence highlights that 19 entry and 22 exit points are being utilized by these vehicles to access the main carriageway, despite the vigilance of traffic marshals stationed there. The letter also sheds light on the overriding challenge: despite preventive measures, the absence of rigorous enforcement enables these prohibited vehicles to brazenly venture onto the expressway. In light of these revelations, it is evident that NHAI has actively engaged with the relevant authorities, urging them to reinforce and implement the standing prohibitions.

6. It has not been disputed before us by anyone of the Respondents that subject to provisions of the regulations and agreements governing expressways, the entry of slow-moving vehicles, including but not limited to two-wheelers, three-wheelers, tractors, and animal-driven vehicles, is categorically prohibited on specific expressways developed as high-speed corridors. This prohibition is instituted primarily to ensure the safety of all road users and to maintain the operational efficiency and speed consistency on these expressways. The Delhi-Meerut Expressway and the Eastern Peripheral Express, for instance, have been designated as high-speed corridors where the movement of slow-moving vehicles is not permitted, as per NHAI's RTI response dated 22nd May 2023, relevant extract whereof is as under:

Sl. No.	Information Required	Desired Information
2.	Whether Entry of slow moving vehicles such as Two/Three wheelers, tractors, animal drawn vehicles are permitted to enter and travel on Expressways?	Delhi Meerut Expressway and Eastern Peripheral Expressway have been developed as a high speed corridor and the movement of high speed vehicles may pose risk to the safety of certain vehicles i.e. two wheelers, three wheelers and other slow moving vehicles like tractors etc. are not allowed as per the Gazette Notifications dated 15.01.2021 and dated 14.06.2018. Under Section 35 of "The Control of National Highways (Land and Traffic) Act, 2002" the slow moving vehicles are prohibited from using the DME & EPE.

7. NHAI's above response also provides substantial clarity on the regulations concerning the movement of slow-moving vehicles on



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particular expressways. The Delhi-Meerut Expressway and Eastern Peripheral Expressway have been constructed as high-speed corridors. It is explained that due to the inherent risks associated with the blend of high-speed vehicles and slow-moving ones, certain vehicles, including but not limited to two-wheelers, three-wheelers, tractors, and animal-drawn vehicles, are not allowed on these expressways. We note that these prohibitions are re-enforced by Gazette Notifications dated 15th January, 2021 and 14th June, 2018. As per Section 35 of the Control of National Highways (Land and Traffic) Act, 2002, the use of any highway or part thereof can be restricted for certain classes of vehicles by way notification in the Official Gazette. Although the Delhi-Gurugram section of the NH-8 is not mentioned in the above response, we note that it has been previously characterized as an "Expressway" in the communication dated 12th October 2022, extracted below:

 **भारतीय राष्ट्रीय राजमार्ग प्राधिकरण**
(राज्य परिवहन और राजमार्ग मंत्रालय, भारत सरकार)
NATIONAL HIGHWAYS AUTHORITY OF INDIA
(MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, GOVT. OF INDIA)

राजमार्ग विकास, परिवहन, और सुरक्षा विभाग
2012/ए. सी. 31, बार्बरिया रोड, (पश्चिमी द्वारका सेक्टर-8 मेट्रो स्टेशन) डेली-21, भारत, नई दिल्ली-110025.
OFFICE OF THE PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT
2012/ए. सी. 31, बार्बरिया रोड, (पश्चिमी द्वारका सेक्टर-8 मेट्रो स्टेशन) डेली-21, द्वारका न्यू डेली-110025.
टेलीफोन/Phone Nos. : +91-0717882100, +91-0717823100 ईमेल/E-mail : puditwarka@nhai.org, puditwarka@gmail.com

पु/04-05/03/03/2022-23/ 1/2.44
To,
A/c, Turtaj Francis
Sudant Estate
T-3/202, Sec-52, Gurugram
E-mail: turtajfrancis@gmail.com

Date: 17-10-2023

Sub: Conversion of Delhi-Gurgaon section of NH-8 into Access Controlled 6/6 Lane Highway from Km. 14.300 to Km. 42.000 on BOT basis;
Reg. Two Wheeler, Three Wheeler and slow moving motor vehicles and slow moving Non-Motor vehicles on the Delhi-Gurgaon Expressway

Sr.

Please refer to your letter no. rel dated 29.09.2022 on the subject mentioned above.

2. In this connection, it is to inform that as per Concessed Agreement made between Concessionaire and NHAI, "Slow vehicles such as Tractors, Animal drawn vehicles and Two/Three wheelers are not allowed on this Expressway." Moreover, in order to implement the above, NHAI has made various efforts with local administration through correspondence. A copy of letter no. 1765 dated 02.09.2022 addressed to DCP (Traffic) Gurugram and DCP (Traffic), South West Dist. New Delhi is enclosed herewith for your information and reference.

Encl: As above


(Dhruv Gupta)
Manager (Tech)
For Project Director,
PUI-Dwarka

8. It is therefore evident that the regulatory framework has clear provisions prohibiting slow-moving vehicles on designated expressways. The issue, as we have discerned from the information and discussions preceding, is more of enforcement and adherence rather than the absence of regulations. While regulations concerning the movement of slow-moving vehicles on expressways, such as the Delhi-Meerut Expressway, are in place, it is evident that there is a gap in their practical execution. NHAI's own acknowledgment underlines this enforcement lacuna.

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Consequently, effective enforcement mechanisms must be put in place by the authorities to ensure that the prescribed rules are followed, thus averting potential hazards and ensuring the safety of all road users.

9. Considering the above, the following directions are being issued: -

9.1. Respondent No. 3 is directed to ensure rigorous enforcement of existing prohibitions discussed above pertaining to the movement of slow-moving vehicles on expressways, especially within the territorial confines of the NCT of Delhi. Regular monitoring and prompt corrective actions should be taken where deviations from the prescribed norms are observed.

9.2. As regards, prayer clause (b) seeking the demarcation of specific lanes for slow-moving vehicles on expressways, we are of the opinion that such a proposition is laden with complexities. The process of setting aside dedicated lanes for such vehicles on expressways is not merely a matter of administrative decision-making but is deeply entrenched in policy considerations. Evaluating the implications of such an initiative necessitates an in-depth examination of multiple facets including feasibility, road safety implications, potential alternatives, and broader traffic management considerations. Given the multifaceted nature of this issue, it is a decision best left to the discretion of the government and the relevant departments. They possess the required expertise, infrastructure, and ground knowledge to make informed decisions after thorough assessments. As a judicial body, we must refrain from delving into areas earmarked for executive and policy-making functions. The relevant government departments should exercise their discretion, underpinned by expert assessments, to determine the feasibility and safety implications of such initiatives.

10. The Court acknowledges the earnest efforts of the Petitioner in bringing to light an issue of immense public significance. Road safety is an area that demands unwavering attention, and collective efforts from both, the authorities and the public, are imperative for preserving and enhancing it. We hope that the directives laid down in this judgment will pave the way for safer expressways and roads, where every user, irrespective of their mode of transportation, can travel securely and efficiently. The onus now lies on the implementing agencies to translate these directions into concrete actions on the ground.

11. With the aforesaid directions, the petition is disposed of.”

4. Thus, keeping in view the aforesaid, it is apparent that the NHAI under the directions of this Court in ***Yuvraj Francis (Supra)*** has taken appropriate action while issuing the notifications under challenge. Since the judgment is rendered by a co-equal bench of this



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Court, the ratio would ordinarily bind this Court too, in accordance with the principles of judicial propriety and discipline. However, with respect to the issue raised in the present petitions, this Court agrees and concurs with the said analysis and opinion. Resultantly, so far as issue (i) is concerned, the present petitions in the nature of a Public Interest Litigation stands closed.

5. However, with respect to the issue (ii) and (iii) respecting imposition of penalty to the extent of Rs. 20,000/- is concerned, it is deemed appropriate to grant liberty to the petitioner in the Public Interest Litigation bearing W.P.(C) No. 15392/2024 to submit a representation *qua* imposition of such penalty with the respondent no.1/NHAI. Should the petitioner make the representation, the Competent Authority of the respondent no.1/NHAI would consider the same and decide it as expeditiously as possible, preferably within four (4) weeks.

6. In view of the aforesaid reasoning and settled principles of law, the present PIL alongwith W.P. (C) No. 15120/2024 are closed.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 06, 2024/rl