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

Judgment reserved on: 08.05.2023

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Judgment delivered on: 14.09.2023

+ **W.P.6824/2022 & CM APPL. 20764/2022**

RAJAT KAPOOR ADVOCATEPetitioner

Through: Petitioner in person.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Gurdas Khurana, Mr. Arnav Kumar, Advocates for R-1.

Mr. Anuj Aggarwal, ASC for GNCTD with Ms. Ayushi Bansal, Ms. Arshya Singh, Mr. Aakash Dahiya, Advocates for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

J U D G M E N T

SATISH CHANDRA SHARMA, C.J.

1. The Petitioner before this Court, who is appearing in person, has filed the present writ petition under Article 226 of the Constitution of India as a Public Interest Litigation (**PIL**) highlighting various issues pertaining to the use of electric vehicles (**EVs**) in the country. The Petitioner has filed the present PIL praying for the following reliefs:

“a. Issue a writ order or direction including a writ of mandamus or any other writ directing the respondent authorities to make the Insurance Cover of the Electric Vehicles



compulsory for 2 Wheelers Electric Scooters/ Bikes in the light of provisions of Section 146 of MV Act;

b. direct the respondent authorities to make the wearing of Helmets compulsory for all types of Electric Bikes and 2 wheeler Electric Scooters irrespective of wattage of the vehicle;

c. direct the authorities to issue appropriate guidelines till appropriate legislation is made to ensure standardized manufacturing of reliable and long lasting Batteries which do not catch fire while being charged or otherwise;

d. direct the respondent authorities for timely and early release of the subsidy to keep alive the interest of the new purchasers;

e. direct the respondent authorities to provide penal provisions for specified violations;

f. grant any other relief which this Hon'ble court may deem fit and proper in the facts and circumstances of the case."

2. It is stated by the Petitioner that he came across two articles in the Times of India, dated 24.04.2022 titled "*Hrs after buying e-scooter, man killed, 3 kin hurt in battery blast*" and "*After fires, Ola to recall faulty batches of EVs*" which prompted him to file the instant PIL.

3. He states that under Section 146 of the Motor Vehicles Act, 1988 (**MV Act**), it is compulsory for a person to obtain an insurance policy against third party risk caused by the use of a motor vehicle as defined under the MV Act. It is his contention that the said provision does not cover EVs. He submits that the Delhi Electric Vehicles Policy, 2020 covers a variety of issues pertaining to EVs, however, the same does not cover the issue of insurance policy to be obtained in respect of EVs by persons wishing to use them. He submits that the lack of rules relating to mandatory insurance



cover of EVs would create a plethora of problems relating to injury, death and compensation to victims of accidents involving EVs or other liabilities such as fire, natural calamities, third-party injuries etc. It is submitted by him that many European countries, such as France, Germany and the United Kingdom have already made obtaining an insurance cover mandatory for using EVs and the same should be done in India as well.

4. It is his submission that there is no requirement of obtaining a license and registration for purchasing and using an electric scooter in India. Further, although the age for driving a scooter/motorbike in India is 18 years, he states that several young children drive EVs without proper insurance and get into trouble because of the same. It is further submitted by the Petitioner that for EVs with power less than 250W and a maximum speed less than 25 kmph, it is not mandatory for the rider to wear a helmet, however, he suggested that even for such EVs, wearing of a helmet should be made mandatory to ensure public safety.

5. He submits that it is important that the government makes necessary and comprehensive changes to the MV Act through amendments or introduce a suitable legislation to cover these issues as EVs are becoming a popular means of transport for people. He also states that several states have introduced state-specific EV subsidies, including the Government of NCT of Delhi, which is offering subsidies to persons registering their EVs in the NCT of Delhi, however the same is not being implemented effectively, and therefore he prays that these subsidies should be released immediately without any delay.



6. Mr. Gurdas Khurana, Learned Counsel for Respondent No. 1/Union of India, at the outset submits that EVs are already treated as motor vehicles under the MV Act read with the Central Motor Vehicles Rules, 1989 (“**CMV Rules**”) and therefore there is no merit in the present PIL and the same is liable to be dismissed. He further submits that Section 146 of the MV Act mandates compulsory insurance cover of Motor Vehicles and Section 129 of the MV Act mandates wearing of protective headgear, while driving or riding a two-wheeler of any class or description in a public place. He also submits that the MV Act under Sections 194D and 196, provides for penal consequences in case of contravention of the mandate of compulsory insurance and wearing of protective headgear as provided in the aforesaid provisions. He further states that Respondent No. 1 *vide* letter dated 13.10.2022 issued an advisory to all Principal Secretaries/Transport Commissioners of all States and Union Territories advising them to take appropriate action to check the violation of any provision of CMV Rules, 1989.

7. Mr. Khurana submits that the only EVs which are exempt from the aforesaid provisions under the MV Act are those vehicles which fall within the exemption stipulated in the proviso to Rule 2(u) of the CMV Rules. However, he submits that as the Petitioner has not challenged the validity of Rule 2(u), this Court cannot pass directions to apply the aforesaid provisions to those categories of vehicles which have been expressly exempted under the Statute and the rules made therein. He relies upon a decision of this Court in *Shahnawaz Khan v. Municipal Corporation of Delhi*, 2014 SCC OnLine Del 4618, in support of his contention.



8. It is submitted by Mr. Khurana, that the relief sought by the Petitioner pertaining to framing of guidelines for manufacturing standardised, reliable and long-lasting batteries cannot be done by the Union of India and would require that the Automotive Research Association of India (**ARAI**) becomes a party to the present PIL, which has not been done by the Petitioner. The ARAI is the research institute of the Automotive Industry with the Ministry of Heavy Industries and provides for technical specification and standardization in vehicles and their components. However, he submits that the Respondent No. 1, in exercise of its powers under Section 109(3) and Section 110(1)(k) of the MV Act amended Rule 124 of the CMV Rules and notified the safety standards for motor vehicles in relation to their parts, components and assemblies as per the Automotive Industry Standard (**AIS**) *vide* Notification No. S.O. 1265(E) dated 13.12.2004. As per the said notification, the manufacturers of traction batteries used in battery operated vehicles are to conform with AIS Standard AIS-048-2009, as amended from time to time.

9. Mr. Anuj Aggarwal, Learned ASC on behalf of Respondent No. 2/Government of NCT of Delhi (**GNCTD**) submits that the term “Battery Operated Vehicles” is defined under Rule 2(u) of CMV Rules and, therefore, EVs are covered under the MV Act and the rules framed thereunder. He further submits that the issue relating to the grant of subsidy for electric vehicles registered in the State of Delhi is being dealt with by the GNCTD and the subsidies are being disbursed on priority basis as per the Delhi Electric Vehicle Policy 2020.



10. Heard learned Counsels for the parties and perused the documents on record.

11. At the outset, it would be appropriate to look at the definition of a “motor vehicle” under the MV Act, read with the relevant rules. Section 2(28) of the MV Act reads as under:

“(28) “motor vehicle” or “vehicle” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres;”

12. Rule 2(u) under the CMV Rules, defines “Battery Operated Vehicles” which in common parlance are often referred to as EVs. Rule 2(u) of the CMV Rules reads as under:

“(u) “Battery Operated Vehicle” means a vehicle adapted for use upon roads and powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle:

Provided that a two wheeled battery operated vehicle shall not be deemed to be a motor vehicle if all the following conditions are verified and authorised by any testing agency specified in rule 126, namely,

(a) vehicle is equipped with an electric motor having thirty minute power less than 0.25 KW;

(b) maximum speed of the vehicle is less than 25 km/hr;



(c) vehicle is fitted with suitable brakes and retro-reflective devices, i.e. one white reflector in the front and one red reflector at the rear;

(d) unladen weight (excluding battery weight) of the vehicle is not more than 60 kg;

(e) in case of pedal assisted vehicle equipped with an auxiliary electric motor, in addition to above, the thirty minute power of the motor is less than 0.25 KW, whose output is progressively reduced and finally cut off as the vehicle reaches a speed of 25 km/hr, or sooner, if the cyclist stops pedaling.

Explanation.—The thirty minute power of the motor is defined in AIS: 049:2003 and method of verification is prescribed in AIS:041:2003, till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986 (63 of 1986);”

13. A perusal of Section 2(28) of the MV Act read with Rule 2(u) of the CMV Rules makes it clear that all EVs or battery operated vehicles, unless they fall under the exemptions provided in these provisions, are considered as “motor vehicles” under the MV Act and are governed by the provisions of the MV Act. Therefore, all the provisions under the MV Act and the CMV Rules pertaining to requirement of registration, mandatory insurance cover, wearing of protective headgear, penal provisions etc. are applicable to EVs. Section 146 of the MV Act mandates compulsory insurance cover for all motor vehicles, which includes EVs, and the said provision reads as follows:

“146. Necessity for insurance against third party risk.—(1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter:



Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991 (6 of 1991).

Explanation.—A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) Sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise.

(3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities, namely:—

(a) the Central Government or a State Government, if the vehicle is used for Government purposes connected with any commercial enterprise;

(b) any local authority;

(c) any State transport undertaking:

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of that authority which that authority or any person in its employment may incur to third parties.

Explanation.—For the purposes of this sub-section, “appropriate Government” means the Central Government or a State Government, as the case may be, and—



(i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;

(ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;

(iii) in relation to any other State transport undertaking or any local authority, means that Government which has control over that undertaking or authority.”

14. Similarly, Section 129 of the MV Act makes wearing of a protective headgear/helmet compulsory for every person who is driving, riding or being carried on a motorcycle of any class or description, including electric scooters or two-wheelers. Section 129 of the MV Act reads as under:

“129. Wearing of protective headgear.—Every person driving or riding (otherwise than in a side car, on a motor cycle of any class or description) shall, while in a public place, wear protective headgear conforming to the standards of Bureau of Indian Standards:

Provided that the provisions of this section shall not apply to a person who is a Sikh, if he is, while driving or riding on the motor cycle, in a public place, wearing a turban:

Provided further that the State Government may, by such rules, provide for such exceptions as it may think fit.

Explanation.—”Protective headgear” means a helmet which,—

(a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motor cycle a degree of protection from injury in the event of an accident; and



(b) is securely fastened to the head of the wearer by means of straps or other fastenings provided on the headgear."

15. As has been stated by Mr. Khurana, the MV Act also prescribes the penalty if a person is not complying with the requirements of Section 129 and 146, and the penalty for the same is provided for in Section 194-D and Section 196 respectively, and the said provisions are reproduced as under:

"194-D. Penalty for not wearing protective headgear.- Whoever drives a motor cycle or causes or allows a motor cycle to be driven in contravention of the provisions of Section 129 or the rule or regulations made thereunder shall be punishable with a fine of one thousand rupees and he shall be disqualified for holding licence for a period of three months.

x x x x x x x x x

196. Driving uninsured vehicle. Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 146 shall be punishable for the first offence with imprisonment which may extend to three months, or with fine of two thousand rupees, or with both, and for a subsequent offence shall be punishable with imprisonment for a term which may extend to three months, or with fine of four thousand rupees, or with both."

16. It is also to be noted that the relevant authority which provides for technical specifications and standardization of parts and components of motor vehicles is the ARAI, which although finds mention in the writ petition, has not been made a party in the present PIL. However, the Ministry of Shipping, Road, Transport and Highways has *vide* Notification No. S.O. 1365(E) dated 13.12.2004 prescribed the standard to be followed by manufacturers for manufacturing motor vehicles and their parts and



components. The relevant extracts of the said notification are reproduced hereunder:

“SO.1365(E).– In the exercise of powers conferred by sub-section (3) of section 109 and clause (k) of sub-section (1) of section 110 of the Motor Vehicles Act, 1988 (59 of 1988) read with sub-rule (1) of rule 124 of the Central Motor Vehicles Rules, 1989 and in supersession of the notifications of the Government of India in the erstwhile Ministry of Surface, Transport (Transport Wing) number S.O. 873 (E), dated 15th December, 1997, as amended or modified by notification numbers S.O. 1228E), dated 18th December, 2001, S.O. 1184 (E), dated 7 November, 2002 and S.O. 1306 (E), dated 11th December, 2002, the Central Government hereby makes the following order specifying the standards to be used by every manufacturer in the manufacture of a motor vehicle including construction equipment vehicle In relation to their parts, components and assemblies as given in the Table below.

2. Save as otherwise provided in this notification, it shall come into force from the date of its publication in the Official Gazette.”

17. The aforesaid notification has been amended by the Ministry of Road Transport and Highways vide a subsequent Notification bearing no. S.O. 436(E) dated 15.03.2012 to provide for the standard of traction batteries to be used by manufacturers in Battery Operated Vehicles, and the relevant extract of the said notification are reproduced as under:

“(vi) after serial number 46 and the entries thereto, the following shall be inserted, namely;- :

47.	<i>The type approval of hybrid electric vehicles. specified in the</i>	<i>AIS-102 (Part 1) - 2009 and AIS 102 (Part2)- 2010, as amended from</i>	<i>1st October 2012</i>
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	<i>standard</i>	<i>time to time.</i>	
48.	<i>Spray Suppression for two wheeled motor vehicles.</i>	<i>AIS: 103-2009 for the vehicles specified therein</i>	<i>New models – 1st October, 2012. Existing models - 1st October, 2013.</i>
49.	<i>Traction batteries used in battery operated vehicles</i>	<i>AIS-048- 2009, As amended from time to time.</i>	<i>1st October, 2013."</i>

18. Lastly, this Court has been assured by the learned ASC appearing on behalf of GNCTD that the subsidy offered for electric vehicles registered in the NCT of Delhi is being duly disbursed in a timely manner on a priority basis.

19. As the relevant provisions of the MV Act and CMV Rules are already applicable to EVs, specifically pertaining to mandatory insurance cover, wearing of headgear on two-wheelers and penal provisions for non-compliance of the provisions, this Court is of the opinion that no orders or directions are required to be passed in this respect. Similarly, as the Union of India has already prescribed standards to be followed by manufacturers for batteries to be used in battery operated vehicles/EVs, there is no need for any orders/directions to be passed by this Court in that regard as well. The GNCTD shall continue to ensure that the subsidy offered by it for electric vehicles registered in the NCT of Delhi is being duly disbursed in a timely manner.

20. Before parting with the case, this Court would like to observe that the present PIL has been filed by the Petitioner solely on the basis of two news



reports and the claims, allegations and issues raised by the Petitioner remain largely unsubstantiated. Had there been some due diligence exercised and research done on the part of the Petitioner, it would have been apparent that the issues raised by the Petitioner in the instant PIL have already been addressed through relevant statutes, rules and notifications. Such frivolous PILs instead of enabling access to justice, actually hinder it by wasting precious judicial time. The doctrine of PIL has been developed by Courts through various judgments to address issues of public interest and to aid those persons who have been caused public injury or such persons whose fundamental rights have been infringed and whose grievances have gone unnoticed, unrepresented and unheard. However, it is often seen that frivolous PILs are filed before the Courts which cause significant delays in disposing of cases of genuine litigants with legitimate grievances. While this Court is cognizant of the purpose for which the doctrine of PIL has been developed, it must also ensure that persons do not abuse the liberal rules pertaining to PILs and waste precious judicial time of this Court. This Court advises and hopes that the Petitioner will exercise necessary diligence and restraint before filing such PILs in the future.

21. With these observations, the petition is dismissed, along with pending application(s), if any.

(SATISH CHANDRA SHARMA)
CHIEF JUSTICE

(SUBRAMONIUM PRASAD)
JUDGE

SEPTEMBER 14, 2023