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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15991 OF 2022

Roppen Transportation Services Pvt Ltd & Anr ...Petitioners
Versus
State of Maharashtra & Ors ...Respondents

Mr Aspi Chinoy, Senior Advocate, with Fereshte Sethna, Prapti Kedia, Shivani Sanghavi & Abhishek Tilak, i/b DMD Advocates, for the Petitioners.
Mr PP Kakade, GP, with AA Alaspurkar, AGP, for the State.

**CORAM G.S. Patel &
S.G. Dige, JJ.**
DATED: 2nd January 2023

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PC:-

1. The Petition challenges the refusal by the State Government to allow entities like the Petitioner a two-wheeler bike taxi aggregator license. Mr Chinoy for the Petitioner points out that this is contrary to a declared policy of the Government of India through the Ministry of Road Transport and Highways which is at Exhibit “B” from page 87. At page 110 is Form III which is a proforma for a license for an aggregator. Item 5 of that form contemplates the aggregator using inter alia a motorcycle. The form is referable to Clause 3(5) at page 93 which says that on being satisfied that the applicant has complied with all conditions specified for a grant or

renewal of a license under the guidelines, the competent authority *shall* issue a license to the applicant in the form in question. The policy is said to be in force in the State of Maharashtra. It is therefore Mr Chinoy's submission that the policy as issued by the Central Government and as applicable in the State of Maharashtra specifically contemplates the use of motorcycles.

2. Further, Clause 15 allows the aggregation of non transport vehicles by aggregators. Therefore, if two wheelers are said to be not transport vehicles, they are nonetheless allowed to be used for aggregation purposes.

3. The State Government's impugned communication of 29th December 2022 says that there is currently no State Government policy on licensing of bike taxis and there is no fare structure policy for bike taxis (page 82). It also says that vehicles used for passenger transport are private and therefore violate "Sections 66/992(a)" of the Motor Vehicles Act. But the policy itself contemplates use of non-transport vehicles for aggregators and a lack of policy is hardly an answer. The ultimate decision then says that there is no such scheme of a bike taxi and there is no fare structure policy in place. It also says that various rules are not complete, and so on.

4. These reasons in the impugned decision are less than persuasive at this stage. We understand that the State Government may need some time to formulate a policy. But it is certainly not entirely out of contemplation and cannot be that until a final policy is formulated a temporary or pro-tem working arrangement can be

made perhaps even on a without prejudice basis. Nobody seems to have applied their mind to the evident advantages from various perspectives including reducing traffic congestion, pollution reduction and efficiency in transport by allowing bike rider systems. We expect that these will be made subject to certain safety requirements that must be followed but that is hardly a reason for rejecting the entire proposal in this fashion. Outside Mumbai, and in fact even in the northern suburban of Mumbai, two wheeler transport is by far the norm and is a matter of great convenience. We see no reason why the Government should not seriously consider the proposal.

5. At this stage we require the Government to tell us within a week when it intends to take a final decision in regard to the two wheeler or bike taxi aggregators license application and what arrangement it intends to make in the meantime.

6. The State Government must also indicate what transitional provision it proposes to make and within what time.

7. We note the statement by Mr Chinoy that another aggregator has obtained a status-quo order from the Supreme Court on 21st April 2022 (at page 128). That aggregator provides exactly the same services as the Petitioners and is, perhaps because of the Supreme Court order, not being stopped. If that is in fact so and we permit Mr Chinoy to file a Further Affidavit in regard to that fact, we do not see how the impugned decision can be selectively applied in this fashion. In another manner of speaking, if the Petitioner was

providing exactly the same service as the aggregator before the Supreme Court on 21st April 2022, then the status-quo order passed by the Supreme Court must obviously extend to the Petitioner as well.

8. The Further Affidavit by the Petitioners is to be filed and served on or before 4th January 2023.

9. List the matter high on board on Tuesday, 10th January 2023.

(S.G. Dige, J)

(G. S. Patel, J)