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

+ **W.P.(C) 8142/2023 & CM APPLs.31278-31279/2023**

INDIAN TOURIST TRANSPORTERS ASSOCIATION (REGD.)

..... Petitioner

Through: Mr.S.S.Ray, Advocate with Mr.Manu
Monga, Ms.Rakhi Ray Mr.Shankar
K.Jha and Mr.Vaibhav Gulia,
Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Ravi Prakash, CGSC with
Mr.Varun Agarwal, Mr.Yasharth
Shukla, Ms.Usha Jamwal and
Mr.Farman Ali, Advocates for R-
1&2.
Ms.Hetu Arora Sethi, ASC with
Ms.Kavita, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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02.06.2023

CM APPL.31279/2023 (exemption)

Allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) 8142/2023 & CM APPL.31278/2023

1. Present writ petition has been filed seeking directions to the Respondents to remove the prohibition from registering high-end vehicles as

taxi without fitment of speed governors till the time the speed governors for these vehicles are available in the market from two or three manufacturers at competitive rates.

2. Learned counsel for the petitioner states that the Union Government has issued tenders for provision of high-end vehicles for transport of guests during the G20 summit and other related events. He, however, states that the manufacturers are declining to supply such vehicles for the purposes of being used as taxis due to the unavailability of speed governors of these vehicles in the market as mandated under Rule 118 of the Central Motor Vehicles Rules, 1989 ('the Act'). He states that the events related to the G20 Summit are stated to be held in New Delhi in the months of August and September, 2023 for the purposes of which Heads of many States/ Governments and other dignitaries are expected to visit the country. He points out that under the tender, the vehicles have to be placed at disposal of the Government at least six to eight weeks prior to the Summit.

3. Learned counsel for the petitioner submits that the petitioner's members/ constituents fall within the definition of "tourist vehicle" as defined under Section 2(43) of the Act and not under "transport vehicles" as defined under Section 2(47) of the Act and so the notification dated 17th July, 2018 and circular dated 16th August, 2018 are not applicable on the vehicles of the petitioner's members/ constituents.

4. Learned counsel for the petitioner further states that the Union of India in the past had issued a letter dated 21st December, 2017 exempting certain categories of vehicles from fitment of speed governors. Since much emphasis was laid on the said letter, the same is reproduced hereinbelow:-

*“No.RT-11021/53/2017-MVL
Government of India
Ministry of Road Transport & Highways
1, Parliament Street,
Transport Bhawan, New Delhi*

Dated: 21st December, 2017

To

*The Principal Secretary (Transport) / The Secretary (Transport) /
The Commissioner (Transport) of all States/UTs*

Subject: Writ Petition (L) No. 1408/2017 in Mumbai Taximen’s Union and Others. Vs. Union of India before Hon’ble Bombay High Court- Power to exempt certain category of vehicles from fitment of Speed Governor.

Sir/Madam,

Ministry of Road Transport & Highways had issued notifications GSR 290(E) dated 15.04.2015 and GSR No.424 (E) dated 01.05.2017 mandating fitment of speed governors in certain categories of transport vehicles. It has come to the notice that the transport vehicles owners are facing problems to comply with the above notifications due to non-availability of speed governors for certain models of motor vehicles.

2. *In this connection, your attention is invited to the provisions of Section 110 (3)(b) of the Motor Vehicles Act, 1988 which empowers the State Governments to exempt any motor vehicles or any class or description of the motor vehicles from the Rules made under sub-Section 1 of sub-section 110. States may take recourse to the abovementioned provision to exempt specific models of transport vehicles from the requirement of fitment of speed governor till the time the speed governors of at-least two or three manufacturers are available at competitive rates, for fitment by the transport vehicles owners.*

Yours sincerely,

Sd/-

(Abhay Damle)

Joint Secretary to the Government of India

Copy for information to:

The Registrar, High Court of Mumbai.”

5. Issue notice. Mr.Ravi Prakash, Advocate and Ms.Hetu Arora Sethi, Advocate accept notice on behalf of respondents No.1&2 and 3 respectively.

Respondents are directed to file their counter affidavits within four weeks. Rejoinder affidavits, if any, be filed before the next date of hearing.

6. Learned counsel for the respondent No.3 states that even though speed governors are not available, the petitioner can be asked to install the 'Intelligence Transport System' so that speed of the vehicles can be kept under control.

7. This Court is of the view that India's assumption of the G20 presidency and the hosting of the summit in New Delhi is a moment of great national pride. To uphold our national prestige and ensure that the Summit is conducted without any hitch, it is essential that the designated vehicles as specified by the Ministry of External Affairs for the guests attending the event are provided without any hindrance.

8. It also seems prima facie to this Court that the insistence on fitment of speed governors on vehicles when such speed governors are not available in the market is an illogical and impossible requirement. Moreover, as emphasised by learned counsel for the petitioner, many other States including the neighbouring State of Haryana have dispensed with this requirement on the ground of unavailability of speed governors.

9. Consequently, in view of the urgency and peculiar circumstances of the case, the respondent No.3 is directed to register the vehicles that are specified in the tender documents issued by Ministry of External Affairs without insisting on the requirement of fitment of speed governors on the vehicles provided the petitioner gives an affidavit/undertaking that the said vehicles are being purchased/imported for the requirement of G-20 summit.

10. List the matter on 3rd August, 2023.

MANMOHAN, J

SAURABH BANERJEE, J

JUNE 2, 2023/TS