

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR. JUSTICE B. M. SHYAM PRASAD

WRIT PETITION NO.6421 OF 2022 [MV]

CONNECTED WITH

WRIT PETITION NO.14627/2021 [MV]

WRIT PETITION NO.19869/2021 [MV]

WRIT PETITION NO.24569/2023 [MV]

IN WP NO. 6421/2022:

BETWEEN

UBER INDIA SYSTEMS PRIVATE LIMITED
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANIES ACT, 1956
HAVING REGISTERED OFFICE AT REGUS
BUSINESS PLATINUM CENTRE PVT. LTD.
LEVEL 13 PLATINUM TECHNO PARK
PLOT NO. 17/18, SEC-30A, VASHI
NAVI MUMBAI - 400 705
REPRESENTED BY ITS AUTHORISED
SIGNATORY, MR. RAVI MAHTO

ALSO AT-23RD FLOOR, ONE HORIZON CENTER,
GOLF COURSE ROAD, SECTION 43,
GURGAON-122002

ALSO AT NO. 77, SURVEY NO.124/2
N.A.L WIND TUNNEL ROAD,
MURGESH PALLYA, HAL POST
BENGALURU 560017.

...PETITIONER

(BY MR. SRINIVASAN RAGHAVAN V, SENIOR ADVOCATE
FOR MR. Y SANKEERTH VITTAL, ADVOCATE,

MS. ANUPAMA HEBBAR, MS. DHARSHINI S AND
MR. ABDUL HADIN, ADVOCATES)

AND :

- 1 . STATE OF KARNATAKA
REPRESENTED BY THE SECRETARY
DEPARTMENT OF TRANSPORT
1ST FLOOR, 3RD GATE
M.S. BUILDING
BENGALURU 560001.
- 2 . COMMISSIONER FOR TRANSPORT
1ST FLOOR, TTMC BUILDING
K.H. ROAD, SHANTINAGAR
BENGALURU 560 027.
- 3 . ADDITIONAL TRANSPORT COMMISSIONER
AND SECRETARY
KARNATAKA STATE TRANSPORT
AUTHORITY, BENGALURU
1ST FLOOR, TTMC BUILDING
K.H. ROAD, SHANTHINAGAR RTO
BENGALURU 560 027.

...RESPONDENTS

(BY MR. K. SHASHI KIRAN SHETTY, ADVOCATE
GENERAL ALONG WITH
MR. MAHESH CHOUDARY, SPECIAL
GOVERNMENT ADVOCATE,
MS. RASHI SINGH AND MS. KRISHIKA VAISHNAV,
ADVOCATES)

THIS WRIT PETITION IS FILED UNDER ARTICLE
226 OF THE CONSTITUTION OF INDIA PRAYING TO
DIRECT THE RESPONDENT NO.1 TO CONSIDER THE
APPLICATION DATED 19.02.2022 (ANNEXURE-A) MADE
BY THE PETITIONER; DIRECT THE RESPONDENT NO.2
TO PERMIT THE REGISTRATION OF MOTORCYCLES AS
TRANSPORT VEHICLES; DIRECT THE RESPONDENT
NO.2 TO PERMIT AGGREGATION OF MOTORCYCLES.

IN WP NO. 14627/2021:**BETWEEN**

ROPPEEN TRANSPORTATION
SERVICES PVT LTD
A COMPANY INCORPORATED
UNDER THE COMPANIES ACT 2013
AND HAVING ITS REGISTERED
OFFICE AT 3RD FLOOR
SAI PRITHVI ARCADE
MEGHA HILLS, SRI RAMA COLONY
MADHAPUR HYDERABAD
TELANGANA - 500081.

ALSO HAVING A BRANCH OFFICE
AT NO 148, 5TH MAIN ROAD,
RAJIV GANDHI NAGAR
SECTOR 7 , HSR LAYOUT
BENGALURU KARNATAKA - 560102

REP BY ITS DIRECTOR
MR PAVAN KUMAR GUNTUPALLI.

...PETITIONER

(BY PROF. RAVI VERMA KUMAR, SENIOR ADVOCATE
FOR MR.NISHANTH A V., ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
THROUGH ITS CHIEF SECRETARY
VIDHANA SOUDHA
DR B R AMBEDKAR VEEDHI
BENGALURU - 560001.
- 2 . ADDITIONAL TRANSPORT
COMMISSIONER AND SECRETARY
STATE TRANSPORT AUTHORITY
1ST FLOOR TTMC BUILDING
A - BLOCK, SHANTHINAGAR
BENGALURU, KARNATAKA - 560027.

- 3 . THE COMMISSIONER
ROAD AND TRANSPORT DEPARTMENT
STATE TRANSPORT AUTHORITY
1ST FLOOR TTMC BUILDING
A - BLOCK, SHANTHINAGAR
BENGALURU, KARNATAKA - 560027.
- 4 . KARNATAKA STATE TRANSPORT AUTHORITY
THROUGH ITS SECRETARY
1ST FLOOR TTMC BUILDING
A - BLOCK, SHANTHINAGAR
BENGALURU, KARNATAKA - 560027.
- 5 . STATE OF KARNATAKA
DEPARTMENT OF TRANSPORT
VIDHANA SOUDHA
DR B R AMBEDKAR VEEDHI
BENGALURU - 560001
REPRESENTED BY ITS SECRETARY.
- 6 . STATE OF KARNATAKA
DEPARTMENT OF HOME
VIDHANA SOUDHA
DR B R AMBEDKAR VEEDHI
BENGALURU - 560001
REPRESENTED BY ITS SECRETARY.

...RESPONDENTS

(BY MR. K. SHASHI KIRAN SHETTY, ADVOCATE
GENERAL A/W MR. MAHESH CHOUDARY,
SPECIAL GOVERNMENT ADVOCATE,
MS.RASHI SINGH & MS. KRISHIKA VAISHNAV,
ADVOCATES)

THIS WRIT PETITION IS FILED UNDER ARTICLES
226 OF THE CONSTITUTION OF INDIA PRAYING TO
DIRECT THE R-1 TO R-6 NOT TO INTERFERE WITH THE
BUSINESS OF THE PETITIONER IN OPERATING BIKE
TAXIS IN THE STATE OF KARNATAKA; DIRECT R-1 TO
R-4 TO CONSIDER AND DECIDE THE APPLICATION
SUBMITTED BY THE PETITIONER ON 8.4.2021 VIDE
ANNEXURE-F; DIRECT R-1 TO R-6 TO TAKE ALL
ACTIONS NECESSARY TO PERMIT REGISTRATION OF A

TWO WHEELER AS A TRANSPORT VEHICLE AND GRANT OF APPROPRIATE CONTRACT CARRIAGE PERMIT TO TWO WHEELERS REGISTERED AS A TRANSPORT VEHICLE IN TERMS OF THE MOTOR VEHICLES ACT 1988 AND RULES FRAMED THEREUNDER; SET ASIDE THE ENDORSEMENT DATED 19.07.2021 ISSUED BY THE R-2 VIDE ANNEXURE-L.

IN WP NO. 19869/2021:

BETWEEN:

ANI TECHNOLOGIES PRIVATE LIMITED
 REGENT INSIGNIA NO. 414
 3RD FLOOR, 4TH BLOCK
 17TH MAIN, 100 FEET ROAD
 KORAMANGALA
 BENGALURU - 560034.

...PETITIONER

(BY MR. ARUN KUMAR K, SENIOR ADVOCATE FOR
 MR. FAISAL SHERWANI AND
 MR. ADITYA VIKRAM, ADVOCATES)

AND:

- 1 . STATE OF KARNATAKA
 THROUGH ITS SECRETARY
 VIDHANA SOUDHA
 BENGALURU - 560001.
- 2 . THE TRANSPORT COMMISSIONER AND
 CHAIRMAN
 STATE TRANSPORT AUTHORITY
 KARNATAKA, 1ST FLOOR
 TTMC BUILDING A - BLOCK
 SHANTHINAGAR
 BENGALURU - 560 027.
- 3 . ADDITIONAL TRANSPORT
 COMMISSIONER AND SECRETARY
 STATE TRANSPORT AUTHORITY
 BENGALURU, 1ST FLOOR,
 TTMC BUILDING

A - BLOCK, SHANTHINAGAR
BENGALURU - 560027.

4 . KARNATAKA STATE TRANSPORT DEPARTMENT
THROUGH ITS SECRETARY
1ST FLOOR, TTMC BUILDING A- BLOCK
SHANTHINAGAR
BENGALURU - 560027.

5 . UNION OF INDIA
THROUGH ITS PRINCIPAL SECRETARY
THE MINISTRY OF ROAD TRANSPORT
AND HIGHWAYS
TRANSPORT BHAWAN 1
PARLIAMENT STREET
NEW DELHI - 110001.

...RESPONDENTS

(BY MR. K.SHASHI KIRAN SHETTY, ADVOCATE
GENERAL A/W MR. MAHESH CHOUDARY,
SPECIAL GOVERNMENT ADVOCATE,
MS. RASHI SINGH, & MS. KRISHIKA VAISHNAV,
ADVOCATES, FOR R1 TO R4;
MS. NAYANATARA B.G., CENTRAL GOVERNMENT
COUNSEL FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-2 TO CONSIDER AND DECIDE THE APPLICATION/REPRESENTATION SUBMITTED BY THE PETITIONER ON 19.4.2021 AT ANENXURE-P1; DIRECT THE P1 TO 4 TO TAKE ALL ACTIONS NECESSARY TO PERMIT REGISTRATION OF A MOTOR CYCLE AS A TRANSPORT VEHICLE AND GRANT OF APPROPRIATE CONTRACT CARRIAGE PERMITS TO MOTOR CYCLES REGISTERED AS A TRANSPORT VEHICLES HAVING A YELLOW REGISTRATION PLATE IN TERMS OF THE MOTOR VEHICLES ACT 1988, CENTRAL MOTOR VEHICLES RULES 1989 AND KARNATAKA MOTOR VEHICLES RULES, 1989 AND THE ORDER DATED 5.4.2021 AT ANNEXURE-B PASSED BY THIS COURT IN THE WRIT APPEAL NO.4010/2019 TITLED ANI TECHNOLOGIES PRIVATE LIMITED V. STATE OF KARNATAKA AND OTHERS OR IN THE ALTERNATIVE

DIRECT THE R-1 TO R4 TO SANCTION AND IMPLEMENT A FRAMEWORK FOR BIKE TAXIS IN VIEW OF S.O. 1248(E) DATED 5.11.2004 AT ANNEXURE-C ISSUED BY THE CENTRAL GOVERNMENT WHEREBY A MOTOR CYCLE USED FOR HIRE TO CARRY ONE PASSENGER ON PILLION HAS BEEN INSERTED AS A CATEGORY OF "TRANSPORT VEHICLE" AND THE ORDER DATED 5.4.2021 PASSED BY THIS HONBLE COURT IN W.A NO.4010/2019 TITLED ANI TECHNOLOGIES PRIVATE LIMITED V/S STATE OF KARNATAKA; ISSUE A WRIT OR PROHIBITION, OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION TO THE RESPONDENT NO.1 TO 4 NOT TO INTERFERE IN THE OPERATIONS OF THE PETITIONERS RELATED TO BIKE-TAXIS IN THE STATE OF KARNATAKA.

IN WP NO. 24569/2023:

BETWEEN:

1. VARIKUTI MAHENDRA REDDY
AGED ABOUT 29 YEARS
S/O VARIKUTI GURIVI R EDDY
RESIDING AT NO.2, LR MANSION
2ND STREET, MADIWALA
BTM 1ST STAGE, BENGALURU-560029.
2. MANOJ H B
AGED ABOUT 27 YEARS
S/O BASAVALINGA S M
R/A 1577, 16TH A MAIN, 2ND PHASE
J P NAGAR, BENGALURU-560078.
3. MADHU KIRAN
AGED ABOUT 30 YEARS
S/O SANJEEVA POOJARY
RESIDING AT NO.944/275/A, 23RD
CROSS, HSR LAYOUT, 3RD SECTOR
BENGALURU-560087

..PETITIONERS

(BY MR.MANMOHAN P N, ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
REPRESENTED BY THE SECRETARY
DEPARTMENT OF TRANSPORT
1ST FLOOR, 3RD GATE
M S BUILDING, BENGALURU-560001.
- 2 . TRANSPORT DEPARTMENT
REPRESENTED HEREIN BY
THE COMMISSIONER FOR
ROAD TRANSPORT AND SAFETY
1ST FLOOR, A BLOCK
TTMCBUILDING, SHANTINAGAR
BENGALURU-560027.

...RESPONDENTS

(BY MR. K. SHASHI KIRAN SHETTY, ADVOCATE
GENERAL A/W SRI. MAHESH CHOUDARY,
SPECIAL GOVERNMENT ADVOCATE,
MS. RASHI SINGH, & MS. KRISHIKA VAISHNAV
ADVOCATES FOR R1 & R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT R2 TO PERMIT THE USAGE OF THE MOTORCYCLES OWNED BY THE PETITIONERS (BEING MOTORCYCLES OPERATED WITH INTERNAL COMBUSTION ENGINES) AS MOTORCYCLE TAXES AND DIRECT R2 TO CONSIDER THE APPLICATIONS/ REPRESENTATIONS DATED 28.07.2023, 28.10.2023 PRODUCED AS ANNEXURES-C, D AND E AND REGISTER THE MOTORCYCLES OF THE PETITIONERS AS TRANSPORT VEHICLES U/S 41 OF THE MV ACT AND ISSUE CONTRACT CARRIAGE PERMITS TO THE PETITIONER U/S 66 R/W SECTION 73 AND SECTION 74 OF THE MV ACT AND DIRECT R1 AND R2 TO GIVE

EFFECT TO THE PROCEDURAL FRAMEWORK FOR REGISTRATION OF MOTORCYCLES AS TRANSPORT VEHICLES IN THE STATE OF KARNATAKA, INCLUDING THE FRAMEWORK OR MECHANISM PERMITTED THE CONVERSION OF MOTORCYCLES REGISTERED AS NON-TRANSPORT VEHICLES TO TRANSPORT VEHICLES AND DIRECT R2 TO IMPLEMENT THE REGULATORY FRAMEWORK UNDER THE MOTOR VEHICLES ACT, 1988 AND THE KARNATAKA MOTOR VEHICLE RULES, 1989 FOR REGISTRATION AND ISSUE OF CONTRACT CARRIAGE PERMITS TO MOTORCYCLES AS MOTOR CABS WITHIN THE STATE OF KARNATAKA AND RESTRAIN THE RESPONDENTS FROM TAKING ANY COERCIVE ACTION AGAINST THE PETITIONERS OR THE MOTORCYCLES OWNED BY THEM, WHEN USED AND OPERATED TO CARRY PASSENGERS FOR HIRE OR REWARD EITHER BY THE PETITIONERS THEMSELVES, OR BY A PERSON DULY AUTHORISED TO SO OPERATE THE MOTORCYCLE, ON BEHALF OF THE PETITIONERS, INCLUDING BUT NOT LIMITED TO OPERATIONS THROUGH APP-BASED MOTORCYCLE TAXI AGGREGATORS, UNTIL SUCH TIME AS THE PETITIONERS SECURE REGISTRATION AND THE APPROPRIATE PERMIT UNDER DULY INTRODUCED REGULATIONS REGARDING MOTORCYCLE TAXIS.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED AND COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE B M SHYAM PRASAD

CAV ORDER

The petitioners are engaged [and who propose to engage] in the business of providing technology-based platform that enables the *Rider Subscribers* to connect with *Driver Subscribers* associated with them for the purposes of hiring taxis/vehicles for point-to-point commuting or for time-based use within city limits [hereafter also referred to as '*the Bike-taxi Services*'] and also for intercity travel within India. The petitioners have filed their different representations with the State Government to sanction and implement a framework for the *Bike-taxi Services*. The State Government has not acted upon such representations, and therefore, they have filed their respective writ petitions for directions to the State Government/its officers to sanction and implement a framework for the use of *Motor cycle* on hire as a *Transport Vehicle* to carry one passenger on pillion.

2. These petitioners are joined by some of the owners of *Motor cycle[s]* who are keen to be part of the *Bike-taxi Services*. The petitioners rely upon the provisions of the Motor Vehicles Act, 1988 [for short, '*the MV Act*'], Central Motor Vehicle Rules, 1989 [for short, '*the CMV Rules*'], Karnataka Motor Vehicles Rules, 1989 [for short, '*the KMV Rules*'] and the Division Bench's order in Writ Appeal No. 4010/2019 which is decided on 05.04.2021. The State Government, asserting that it is open to it to evolve, sanction and implement a framework for allowing *Motor cycles* to be used as Taxis as a policy, relies upon a certain set of decisions, including the decisions of the Apex Court. A brief statement of the circumstances of each of the petitions is recorded as below.

The details of the petitioner in WP No.6421/2022
[M/s Uber]

3. The petitioner is a private limited company registered under the Companies Act, 1956 under the name and style, *M/s Uber India Systems Private*

Limited, and it is commonly known as ‘*Uber*’. This petitioner is licensed to function under the name and style, ‘*Uber*’ by its parent organization. The petitioner is issued with license under the Karnataka On-demand Transport Technology Aggregator Rules, 2016 [for short, ‘*the ODTTA Rules*’] to operate as an *Aggregator* who enables connecting the passenger [*the intending passenger*] to a driver of a *Motor Cab* through Phone calls, Internet, Web based services or GPS-based services. The petitioner has filed an application for renewal of this license under the ODTTA Rules in December 2021, and this application is pending consideration.

3.1 The petitioner contends that it provides the aforesaid *Taxi services* in 49 cities in the country and it has striven hard to ensure that its business module facilitates a safe and secure mode of transportation to its pillion riders and drive partners. The petitioner has listed safety features incorporated by it, and the list of such features are as follows: **[i]**

Background Check of all Driver-partners, [ii] Insurance for Drivers and Driver Partners up to a sum of Rs.5 lakhs for bodily injury¹, [iii] In-app tool to report on accidents, [iv] Feedback System, [iv] 24/7 Helpline and Support Team, and [v] Deployment of Phone Anonymization Technology.

3.2 The petitioner, like the other petitioners, contends that it has filed different representations for leave to operate motorcycles as taxis with required registration and permits, but the State Government has not considered these representations. This petitioner also relies upon the different provisions of the MV Act, CMV/KMV Rules and the decisions of this Court and the Apex Court for directions as stated above. This Court, on 12.04.2022, has directed the authorities not to take precipitative action against this petitioner or its representative or its officer obstructing its *Bike-taxi Services*.

¹ *It has referred to its partnership with reputed insurance companies to provide insurance cover for accidental death, disablement and hospitalization.*

The details of the petitioner in WP No.14627/2021 [M/s Rapido]:

4. The petitioner is a private limited company registered under the Companies Act, 1956 under the name and style, *M/s Roppen Transportation Services Private Limited*, and it is commonly known as 'Rapido'. The petitioner is engaged in the business of *Bike-taxi Services* through its website and mobile application. The petitioner contends that it has evolved its business module to ensure environmental and health benefits, reduce parking problem and traffic congestion, promotion of fuel conservation and the increased use of under utilized *Motorcycles*. The petitioner contends that, apart from the afore benefits, its business module helps the owners of *Motorcycles* augment their income.

4.1 The petitioner contends that the third party riders [the owners] who enroll with it follow stringent safety protocols, and it has listed in the petition as the following measures put in place for the

safety of the riders and the general public such as **[i]** a *Mandatory e-KYC Compliance* by the owners of the *Motorcycle* which involves verification of driving license, vehicle Registration Certificate, PAN card and a profile photo, **[ii]** a mandatory *Safety Gear* for both the rider and the pillion rider, **[iii]** a strict compliance with the *Traffic Regulations* including speed limits, **[iv]** a mandatory *Insurance Cover* for the riders and the pillion riders², **[v]** *SOS features* for the riders, **[vi]** *Masking of Mobile Numbers* of the women pillion riders.

4.2 The petitioner asserts that it is permitted to operate its *Bike-taxi services* in the State of Madhya Pradesh and the State of Tamil Nadu subject to notification of the necessary Rules and Regulations. Insofar as the State of Karnataka, the petitioner contends that it has submitted multiple representations [*during Pre-Covid and Post-Covid*

² *The reference is to Group Insurance for both the Riders and the Pillion riders providing for Accidental Death Benefit, Accidental Medical Expense Reimbursement, Temporary Disablement Compensation and such other benefits.*

period] for permission while detailing the difficulties that it has faced in operating its services because of certain threats by an association of Owners of Auto-rickshaws and with the local Police issuing challans for violation.

4.3 The State Government, by its Endorsement dated 19.07.2021 [*Annexure-L*], has rejected the petitioner's application for permission to operate *Bike-taxi Services* referring to the Karnataka Electric Bike Taxi Scheme 2021³ [for short, '*the Electric Bike Taxi Scheme*'] and calling upon the petitioner to file its application for permission under the Scheme. The petitioner contends that it cannot apply under *the Electric Bike Taxi Scheme* because it does not propose to operate *Bike-taxi Services* only for those who own electric *Motorcycles*. This Court, on 11.08.2021, has granted interim orders directing the Transport Authorities not to take any coercive measures against those who are enlisted with the

³ *Notified vide the Notification in No.TD 160 TDO 2020 dated 14.07.2021*

petitioner and its Bike-taxi services. This order is in vogue, and in fact, these petitions are taken up for expeditious disposal with the State Government seeking vacating of this order [and similar orders in the other petitions].

The details of the petitioner in WP No. 19869/2021 [M/s Ola]

5. The petitioner is a private limited company registered under the Companies Act, 1956 under the name and style, *M/s ANI Technologies Private Limited*, and it is commonly known as 'Ola'. This petitioner is in *Car-taxi Services* and in recent days has ventured into *Bike-taxi Services*. The petitioner, with the Notification of ODTTA Rules, has launched a *Two-Wheeler Taxi Pilot Project* in February 2019.

5.1 The petitioner is served with the Show Cause Notice dated 15.02.2019 by the Additional Transport Commissioner, State Transport Authority, Bengaluru alleging that this pilot project is in

violation of ODTTA Rules and calling upon the petitioner to show cause as to why its license under these Rules must not be suspended. The Commissioner by order dated 18.03.2019 has suspended such license, but the license is restored with the petitioner paying a penalty of Rs.15 lakhs.

5.2 The petitioner has almost simultaneously initiated proceedings in the writ petition in WP No.14485/2019 for directions to the authorities not to permit *Motorcycles* [*which are registered for personal use*] to be operated as *Transport vehicles* [*taxis*] and to permit registration of *Motorcycles* as *Transport vehicles* and grant *Contract Carriage Permit* to such *Motorcycles*, or in the alternative, to implement a framework to enable *Motorcycles* to be used as *Transport vehicles* as contemplated under the Central Government's Notification dated 05.11.2004 issued under Section 41[4] of the MV Act. The petitioner's cause is premised in the assertion that M/s Roppen Transportation Services Private

Limited, which also offers technological platform for subscribers to use taxi services and operate under the business name, Rapido, is permitted to operate *Bike-taxi Services*.

5.3 This Court has disposed of the writ petition on 12.09.2019, and a review petition in RP No. 516/2019 as against this order dated 12.09.2019 is disposed of on 14.11.2019. This Court's order in the aforesaid writ petition is carried in an *intra Court* appeal in W.A. No.4010/2019 [*which is first referred to above*]. This writ appeal is decided on 05.04.2021. The details of these proceedings are set forth later in the course of this order while describing the different proceedings that the parties rely upon in respect of their corresponding cases. In the present petition, this Court, on 18.02.2022, because interim order is granted in the writ petition in WP No.14627/2021, has granted interim order against precipitation if this petitioner offering *Bike-taxi Services* for *Motorcycles*.

The petitioner has belatedly commenced its *Bike-taxi Services*.

The details of the petitioner in WP No.24569/2023 [Owners of the Motorcycles]

6. These petitioners are individuals who own *Motorcycles*, and they have registered with either *M/s Uber* or *M/s Rapido* or *M/s Ola* offering their vehicles to be used as *Bike-taxis*. They have also filed representations with the Department of Transportation, Government of Karnataka for instructions on registering their motorcycles with yellow board so that it could be used as taxis. These petitioners have relied upon certain statements attributed to a Hon'ble Minister to contend that they will have to face penal consequences because their *Motorcycles* as taxis are registered with *M/s Rapido*. The petitioners have sought for directions to the State Government to permit them to use their vehicles [*Motorcycles*] as taxis permitting registration of these

vehicles as *Transport Vehicles* and to issue *Contract Carriage Permits*.

This Court's orders on application for impleadment and the questions for consideration:

7. An Association of the owners of Auto-rickshaws have filed application under Order I Rule 10 of Code of Civil Procedure, 1908 [CPC] to implead itself as a contesting respondent. This Court has rejected the application by the order dated 04.01.2023⁴ opining *inter alia* that the petitioners do not seek any final adjudication but only want this

⁴ *The petitioners contend that such consideration must be in the light of the earlier decision of this Court in similar proceedings and certain circulars issued by the Central Government. The petitioners do not plead cause for final determination of any right per se and as such, the canvass for decision in the present set of writ petitions is narrow. If there could be any direction either to consider such representation or to frame necessary framework, the decision will have to be taken by the concerned, and the process for such consideration could provide for considering all aspects, including the concerns of those whom the applicants state that they represent with reasonable opportunity which would be reasonable in the circumstances. When the merits of the applications are considered from this perspective, this Court must opine that the applicants would be neither necessary nor proper parties.*

Court to decide whether the respondents must be called upon to formulate a framework to permit *Motorcycles* to operate as *Transport Vehicles* relying upon earlier decisions and that if there is a direction to formulate a framework, they will be heard accordingly by the concerned.

7.1 Subsequently, on 20.03.2024, upon hearing, Mr. Arun Kumar.K, Mr. Srinivasan Raghavan.V, Mr. A.V. Nishanth and Mr. P.N. Manmohan, the learned Senior Counsels/learned counsels for the petitioners, and Mr. Shashi Kiran Shetty, the learned Advocate General, this Court has proposed the questions for consideration:

[i] Whether this Court can hold that the law as it exists today does not permit bikes [Internal Combustion Engines] to operate as taxis, and

[ii] If the answer to this question is in the negative [i.e., the law does not prohibit these bikes from operating as taxis], what directions must be issued to the State

Government in the facts and circumstances of the case.

7.2 When the questions as aforesaid were framed, the *Electric Bike Taxi Scheme* was in vogue. The significant features of the Scheme were that **[a]** its objective was to promote urban mobility providing the first and last mile connectivity solution for citizens to access the public transport and also create entrepreneurship opportunities, **[b]** a person is permitted to engage in the Bike taxi business if the concerned bike is a ‘*Battery Operated Vehicle*’ as defined in Rule 2(u) of the CMV Rules, and **[c]** the electric bikes [*two wheelers*] will also be issued with *Contract Carriage Permits*. The State Government, *vide* the Notification dated 06.03.2024, has withdrawn this Scheme citing the following reasons:

[a] The Authorities have become aware of violations, specifically the utilisation of Non-transport Motorcycles (with white boards) as Bike-taxis.

[b] *The confrontations involving auto and taxi drivers regarding the operation of bike taxis.*

[c] *Instances of threats to women's safety, raising concerns about law and order.*

7.3 This Notification dated 06.03.2024 has taken away the argument that there is an unreasonable distinction in the State Government's Policy on permitting *Motorcycles* to be used as taxis and the question framed is enlarged to whether *Motorcycles* can be permitted to be used as taxis under the law as it exists today. It is indisputable that the afore questions must be first examined in the light of the decision in the earlier proceedings commenced by M/s ANI Technologies Ltd. [M/s *Ola*] in the writ petition in WP No.14885/2019 and the Division Bench's orders in the subsequent writ appeal in WA No.4010/2019. The Division Bench has examined the canvass on behalf of M/s *Ola* that it cannot be prevented from offering *Bike-taxi Services* on its Application.

**Reg: WP No.14485/2019, RP No.516/2019 and
WA No.4010/2019**

8. M/s *Ola* has filed this petition seeking directions to the State Government to **[a]** ensure that no *Motorcycles*, which are registered for personal use, are allowed to be operated as *bike-taxis* in any form, **[b]** register a *Motorcycle* as a '*Transport Vehicle*', and **[c]** issue '*Contract Carriage Permit*' to a *Motorcycle* registered as a '*Transport Vehicle*' or in the alternative for directions to implement a framework in terms of the Central Government Notification in S.O.1248 (E) dated 05.11.2004.

8.1 This Court, by interim directions, has called upon the Transport Department to file compliance reports on *Motorcycles* being used as Transport Vehicles [Taxis], and in compliance with this Court's interim directions, the concerned from the Transport Department has filed an affidavit. This Court has disposed of the writ petition by its order dated 12.09.2019 directing the Transport

Department to ensure that the *Motorcycles* are not used as taxis and monitor the same from time to time. This Court's order dated 12.09.2019 reads as under:

"2. Pursuant to the various interim directions during the pendency of the present petition, officials on behalf of respondents No. 1 to 4 have produced compliance report by way of an affidavit along with enclosures, Annexure R1 to R6. Having regard to prayer made by the petitioner read with interim direction issued, grievance of the petitioner has been redressed. It is evident from the materials produced along with the affidavit that it is continuous process of prohibiting private vehicles (motorcycles/bikes) used as taxis. Therefore, Transport Department is required to monitor from time to time and to see that private vehicles (motorcycles/bikes) are not used for the purpose of taxi. The Commissioner of transport Department is hereby directed to prepare monthly report and made available in his office for the future reference. In view of these facts and

circumstances, the grievance of the petitioner has been redressed."

This Court has also further directed the Authorities in the following terms.

"The concerned authorities are hereby directed to take note of section 193 of the MV act and also in this regard, report shall be prepared in the office of the Commissioner of transport Department from time to time."

8.2 M/s Ola Cabs has filed a review petition against this order in RP No.516/2019 contending non-consideration of the other relief/s *i.e.* for registration of *Motorcycles as Transport Vehicles* and for issuance of *Contract Carriage Permit*. However, this Court by its order dated 14.11.2019 has disposed of the review petition opining that the representations can be made by the petitioner to the concerned authorities, who shall consider the same in accordance with law.

8.3 M/s Ola has carried these orders in an intra-Court Appeal in WA No.4010/2019. The Division Bench of this Court, on 05.04.2021, has disposed of the appeal observing that **[i]** a *Motorcycle* could be used for hiring to carry one passenger as a pillion, **[ii]** even as per the Central Government Notification dated 05.11.2004 a *Motorcycle* used for hire would *prima facie* come within the definition of a *Contract Carriage* as defined in Section 2(7) of the MV Act, and **[iii]** the definition of a *Contract Carriage* is an inclusive definition, which will include even a *Motorcycle* which is to be used for hire or reward on which a passenger could be carried on pillion.

8.4 In the light of the above, the Division Bench has modified this Court's order dated 12.09.2019 in the writ petition directing that the State Government authorities must consider the application made by M/s Ola [or any other similarly situate entities] having regard to the provisions referred and in accordance with law. The Division

Bench has directed the authorities to consider the application filed within a period of two [2] months with liberty to the petitioner therein [M/s Ola] to file applications within two [2] weeks.

The submissions by Mr. Srinivasan Raghavan V, Mr. Arun Kumar K, the learned Senior Counsels, Mr. A V Nishanth and Mr. P N Manmohan on behalf of the petitioners:

9. The Division Bench in the Writ Appeal in W.A.No.4010/2019 has reserved liberty to the petitioners to file applications for registration of *Motorcycles* as Transport Vehicles and for issuance of *Contract Carriage Permits* directing the State Government to consider such applications in the light of its findings on whether *Motorcycles* can be *Transport Vehicles* and in accordance with law. The petitioners have filed repeated applications in terms of this liberty, but the State Government has not taken any action to either grant or refuse such registration and permits. Therefore, the State

Government must be directed to consider their applications filed.

9.1 The decision of the Division Bench in W.A. No.4010/2019 has attained finality, and with this decision, the State Government cannot gainsay that the *Motorcycles* can be registered as *Transport Vehicles*, and if these vehicles can be so registered, the State Government is invested with the jurisdiction under Sections 73 and 74 of the MV Act to grant *Contract Carriage Permits*. The provisions of KMC Rules also enable registration of *Motorcycles* as *Transport Vehicles* and issuance of *Contract Carriage Permits*.

9.2 On the *Motorcycles* being *Transport Vehicles*, apart from the enunciation by the Division Bench in the aforesaid intra-Court appeal, the reliance is on the provisions of the MV Act which define expressions such as *Motorcycle*, *Motor vehicle* and *Contract Carriage* to contend that these will be crucial as would be the provisions which define the

expression '*Private Service Vehicle*'. The State Government cannot, despite these provisions and the decision of the Division Bench, successfully assert that *Motorcycles* are not *Transport Vehicles*.

9.3 The Central Government, way back in the year 2004, has issued notification under Section 41[4] of the MV Act specifying that Motorcycles used for hire to carry one passenger on pillion will be Transport Vehicles and has issued Communication dated 22.01.2024 clarifying that *Motorcycles* will be *Transport Vehicles* and this would be obvious from the provisions of Section 178[3] of the MV Act. This Communication dated 22.01.2024 must be construed as issued in exercise of its jurisdiction under Section 74[3][a] of the MV Act. The Central Government, under this provision, can limit the number of contract carriages generally, and if the Central Government so directs, the State Government shall direct the State Transport Authority/Regional

Transport Authority to so limit the number of contract carriages.

9.4 The Central Government has been promoting use of *Motorcycles as Transport Vehicles* based on the reports filed by the Committees constituted to address urban traffic congestion. The Central Government has also evolved Guidelines, 2020 providing for Rules to govern the Aggregators' business as intermediaries facilitating taxi services, including Rider sharing. The different State Governments have also, in tandem with Guidelines, 2020, framed Rules to facilitate and regulate the Aggregators' business as intermediaries. The petitioners are operating accordingly in multiple cities across the country.

9.5 The petitioners have put in place different measures that ensure protection of the riders/pillion riders with insurance cover and safety measures to meet the contingencies that could be because of an untoward accident. In fact, there is a detailed

mention of the measures in the respective memorandums of writ petitions. This Court has referred to such measures in the earlier paragraphs, and the endeavour in mentioning these measures is to assert that the measures are adequate and in line with the Guidelines, 2020.

Arguments by Mr. Shashi Kiran Shetty, the learned Advocate General, who is assisted by the learned Special Counsel Mr. Mahesh Choudary.

10. The Division Bench in the writ appeal in W.A.No.4010/2019 has indeed concluded that a *Motorcycle* would be a '*Contract Carriage*' because it will be a *Motor Vehicle* and a *Transport Vehicle* but it has left open the question whether the *Motorcycles* must be permitted to operate as *Transport Vehicles* [Taxis] to be considered by the State Government in the light of Sections 73 and 74 of the MV Act and the provisions of the KMV Rules.

10.1 A permit can be issued only to a *Transport Vehicle*. A *Transport Vehicle* by definition will be

either a *private service vehicle* or a *public service vehicle*. A *Motorcycle* cannot be a *private service vehicle* because such service vehicle must be constructed and adopted to carry more than six passengers for hire or reward. A *motorcycle* cannot also be a *public service vehicle* as such vehicle must be a *Motor cab* or a *Maxicab* or a *Contract Carriage* or a *Stage Carriage* that can be used on hire or for reward. The *Motorcycle* is defined as two-wheeled vehicle but specifically excluding the expression '*for hire or reward*' and in which event, it would mean that a *Motorcycle* cannot be used for hire or reward, and therefore a *Motorcycle* cannot be registered as a *Transport Vehicle*.

10.2 When permits are issued to operate as a *Transport Vehicle*, fares are fixed under Section 67 of the MV Act in accordance with the KMV Rules. These Rules contemplate taxi meters for auto-rickshaw but without reference to a *Motorcycle*, and therefore, the prescribed form in Form No.36 refers to vehicles

other than *Motorcycles*. If *Motorcycles* are to be permitted to be operated as taxis, fares must be fixed, and the existing Rules do not permit it.

10.3 The Communication dated 22.01.2024 addressed by the Central Government to the State Government/s is not a direction as contemplated under Section 74[3][a] of the MV Act. This Communication does not refer to any specific direction, and at the most, it is only advisory. Therefore it does not offer a cause of action for the petitioners to contend that it must be acted upon for necessary notification under this particular Section.

10.4 The Supreme Court in Civil Appeal No.4039 of 2023 in ***Government of NCT of Delhi & Ors v. Roppen Transportation Services Pvt. Ltd. & Ors.***, has emphasized that the vehicles shall not be plied without permit underscoring the principle that “*no permit, no plying*”. Notwithstanding this conclusion in their own matters, the petitioners [*M/s OLA and M/s Rapido*] are permitted to ply *Motorcycles*

registered as private vehicles as *Transport Vehicles* [*Taxis*]. The Supreme Court in this decision has reiterated that it is the State's prerogative to formulate a policy on *Bike-taxi Services*, and unless such policy is formulated, *Motorcycles* cannot be operated as *Transport Vehicles* [*Taxies*].

10.5 In the petition by M/s Ola in WP No.14485/2019 [*which is disposed of on 12.09.2019*] in which M/s Rapido **is the sixth respondent**, this Court has held that *Motorcycles* cannot be permitted to operate as taxis, and in this regard the Transport Department must keep a constant vigil. This direction, which is at the instance of M/s Ola, has not been disturbed by the Division Bench and suppressing these aspects, and taking shelter under the interim order not to take coercive measures, M/s Ola and M/s Rapido are operating *Bike-taxies*, and this conduct must in itself disentitle the petitioners to any relief.

10.6 Neither the provisions of the MV Act, nor the provisions of the KMV Rules provide for registration of the *Motorcycles* as yellow board vehicles [*Transport Vehicles*] entitled for *Contract Carriage Permits*. The Notification issued by the Central Government under Section 41[4] of the MV Act is only for the limited purposes of registration. It would be relevant only if the State Governments evolve a policy.

This Court's reasoning:

11. The question whether *Motorcycles* can be permitted to be used as *Transport Vehicles [Taxis]*⁵ under the law as it exists today will have to be examined considering **[a]** *whether the MV Act envisages Motorcycles being used as Transport Vehicles [Taxis]; [b]* *if it is open to the State Government to formulate Guidelines to permit an Aggregator to operate as an intermediary for a passenger to connect with a driver for the purpose of*

⁵ *By the aggregators such as M/s Ola, M/s Uber, M/s Rapido or by the owners of the motorcycles themselves.*

transportation and if the State Government has decided not to so permit as a policy decision, should this Court interfere in these petitions.

Reg. whether the MV Act envisages motorcycles being used as Transport Vehicles [Taxis].

12. The answer to this question must first be in view of the definition of the expressions such as *Motor Vehicle, Motorcycle, Transport Vehicle, Contract Carriage* in the MV Act. The expression, *Motor Vehicle [or a vehicle]*, is defined under Section 2[28], and this Section reads that it will mean *any mechanically propelled vehicle adapted for use upon roads [whether the power of propulsion is transmitted from an external or internal source*⁶, but does not include **[a]** a vehicle running upon fixed rails or **[b]** specially adopted vehicle for use only in a factory or in any other enclosed premises or **[c]** vehicle having less than four wheels fitted with engine capacity of not exceeding 25cm³. The expression, *Motorcycle*, is defined under

⁶ *And it includes a chassis to which a body has not been attached and a trailer*

section 2[27] to mean a two-wheeled motor vehicle, inclusive of any detachable sidecar having an extra wheel attached to the motor vehicle.

12.1 The expression, *Contract Carriage*, is defined under Section 2[7], and it means a Motor Vehicle which carries **[i]** a passenger for hire or reward, **[ii]** is engaged under a contract [whether expressed or implied] for the use of such vehicle as a whole for the carriage of passengers mentioned therein, **[iii]** the contract is entered into by a person with the holder of a permit in relation to such vehicle or any person authorized by him for his behalf, **[vi]** on a fixed or an agreed rate of sum on a time basis [*whether or not with reference to any distance or from one point to another*], and **[vi]** in either case without stopping to pick up a set of passengers not included in the contract anywhere during the stretch. This Section further stipulates that *Contract Carriage* will

also include a *Maxi cab* and a *Motor Cab*⁷ notwithstanding that separate fares are charged for its passengers. This provision reads as under:

(7) “Contract Carriage” means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum—

(a) on a time basis, whether or not with reference to any route or distance; or

(b) from one point to another,

and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes— (i) a maxicab; and (ii) a motor cab notwithstanding that separate fares are charged for its passengers;

⁷ *These two expressions are also defined under section 2[22] and 2[25] of the MV Act.*

12.2 A Division Bench of this Court in Writ Appeal No. 4010/2019 has held that *Motorcycles* will also be *Contract Carriages* which can be used as *Transport Vehicles [Taxis]* on a conjoint reading of the aforesaid expressions in the light of the Central Government Notification dated 05.11.2004 issued under Section 41[4] of the MV Act specifying *inter alia* that a *Motorcycle* can be used for hire or to carry one passenger on pillion as a *Transport Vehicle*.

“13. *Therefore, a motorcycle could be used for hire to carry one passenger as a pillion. Even as per the Central Government Notification such a motorcycle used for hire would, prima facie, come within the definition of contract carriage as defined under sub-section (7) of Section 2 of the MV Act, 1988, wherein a contract carriage means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether express or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorized by him*

in this behalf on a fixed or an agreed rate or sum. The definition of contract carriage is an inclusive definition, which includes a maxi-cab and a motor-cab notwithstanding that separate fares are charged for its passengers. The definition of contract carriage, is an inclusive definition and not an exhaustive one, which would include even a motorcycle taxi which is to be used for hire or reward on which a passenger could be carried on pillion as it is categorized as a transport vehicle by issuance of notification by the Central Government under the provisions of the MV Act, 1988. In this regard, reference could also be made to sub-section (28) of Section 2 of the Act which defines a 'motor vehicle' or 'vehicle' which means mechanically propelled vehicle adapted for use upon roads which includes a Chassis and sub-section (27) of Section 2 which defines a 'motorcycle' which means a two-wheeled motor vehicle, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle."

12.3 The Division Bench, after the conclusion as aforesaid, and with the statement on behalf the petitioner therein [M/s Ola] that a separate

application will be filed with the authorities for grant of permit to operate as “*an aggregator*” extending *Taxi Services* with the use of *Motorcycles*, has observed that the authorities must consider such application in the light of the provisions as stated above and in accordance with law.

12.4 If on behalf of the petitioners reliance is placed upon this exposition by the Division Bench to contend that the State Government cannot dispute that *Motorcycles* could be used as *Transport Vehicles* [*Taxis*] and it would be open to *an Aggregator* to offer *Bike-taxi Services* for such use of *Motorcycles*, on behalf the State Government it is contended that *Motorcycles* cannot be treated as *Transport Vehicles* [*Taxis*]⁸ because of the definition of the expressions “*Transport Vehicle*” and “*Motorcycle*” in the MV Act. The emphasis is laid on the expression “*for hire or reward*” as found in Section 2[47] which defines the

⁸ *It is undisputed that the expression taxi or taxi services are not separately defined under the MV Act and is covered under the expression ‘public service vehicle’.*

expression *Transport Vehicle* and the absence thereof in Section 2[27] which defines a *Motorcycle*.

12.5 The expression, “*Transport Vehicle*”, is defined to mean a *Public Service Vehicle*, a *Goods Carriage*, an *Educational Institution Bus* or a *Private Service Vehicle*. Indubitably, the significance of the expressions *Educational Institution Bus* or *Private Service Vehicle* will not be relevant for the present purposes. The expression a *Public Service Vehicle* is defined under Section 2[35] to mean “*any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward and includes a Maxi cab, a Motor cab, Contract Carriage and Stage Carriage*”. This Court must observe that if the expressions *Maxi Cab* and *Motor Cab* are defined with reference to *for hire or reward*, the expressions *Contract Carriage* and *Stage Carriage*⁹ are used using

⁹ The definition of the expression *Contract Carriage* are extracted *supra* and the expression, *Stage Carriage* reads as follows:

“*Stage carriage*” means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for

the expressions *fixed or an agreed sum* and *fares* respectively. The expression *Motorcycle* indeed is not defined with reference to the expression *for hire or reward* or for *fixed or an agreed sum or fares*, but by definition [as expounded by the Division Bench in the writ appeal in W.A. No. 4010/2019] *Motor Cycles* are *Contract Carriages* and it can be used subject to an agreement [with the concerned as mentioned in the section] for *a fixed or an agreed sum*.

12.6 As such, it is not reasonable to opine that *Motorcycles*, only because the definition in Section 2[27] does not refer to the expression *for hire or reward*, cannot be used as *Transport Vehicles* [*Taxis*]. Incidentally, this Court must also mention that the Central Government by its Communication dated 22.01.2024 has recently clarified that because *Motorcycles* which fall within the definition of *Contract Carriage* under section 2[7] it will be *Transport Vehicle* and can be plied accordingly. The

individual passengers, either for the whole journey or for stages of the journey.

Central Government has also referred to the provisions of Section 178[3] of the MV Act stating that this Section contemplates levy of a fine if the driver of a two-wheeled Contract Carriage refuses to ply or carry a passenger.

12.7 It is next contended that this Court in the earlier rounds of litigation in WP No.14485/2019 has held that the State Government, because it is not permissible in law to allow *Motorcycles* to be used as *Transport Vehicles [Taxis]*, must constantly monitor whether the *Motorcycles* are indeed being used as *Transport Vehicles/Taxis*. It is argued that the Division Bench in Writ Appeal No. 4010/2019 has not disturbed this finding, and therefore, it would not be open to the petitioners, especially M/s Ola, to contend that it must be permitted to offer services to owners of *Motorcycles/ Riders* as an *Aggregator*.

12.8 However, this Court, in view of the clear enunciation by the Division Bench that the *Motorcycles* would be *Contract Carriages* and

therefore *Transport Vehicles* and this Court's own opinion as aforesaid, is not persuaded to opine that this Court's order in Writ Petition No. 14485/2019 is not modified. This Court must also record that in the last part of its Order, the Division Bench has made it clear that this Court's order in such writ petition is modified. The Division Bench, with M/s Ola offering to make an application for registration of *two-wheelers* [*Motorcycles*] as *Transport Vehicles* and for issuance of permit to use them as *Contract Carriages*, has reserved liberty to make such application and directed the authorities to consider the same in view of its exposition and in accordance with law.

12.9 Therefore, the State Government cannot succeed either on the ground that the definition of *Motorcycle* in Section 2[27] of the MV Act does not provide for such vehicles being used for hire or reward or on the ground that the orders of this Court in WP No. 14485/2019 is not modified, and consequentially, the first question is answered

holding that *Motorcycles*, under the provisions of the MV Act, can be registered as *Transport Vehicles* and issued with permits to operate as *Contract Carriages*, but subject to this Court's further opinion on the next set of questions formulated as stated at the first instance as part of the larger question.

Reg. The details of the Guidelines notified by the Central Government and State Government on Aggregators and permitting the use of Motorcycles as Transport Vehicles [Taxis]/ Non – Transport Motor Vehicles for Rider Sharing/E-Bikes.

13. The Ministry of Road Transport and Highways [the MoRTH] has constituted a Committee to propose *Taxi Policy Guidelines to Promote Urban Mobility*. One of the key recommendations by this Committee in its report submitted in the year 2016 is that *the States should promote bike sharing and e-rickshaws for last mile connectivity*. This Committee has also suggested that there must be increase in the

awareness of the Transport Department's ability to issue *Contract Carriage Permits for Motorcycles*.

13.1 In the meanwhile, the Central Government has issued advisory to the States on the Rules to be framed for safety of passengers who use technology based on *Demand Transportation Technology Aggregator Platforms*. The State Government, in exercise of its powers under Section 93 [as it stood prior to Amendment Act 32 of 2019], Section 95[1] and Section 96[1] read with Section 212 of the MV Act has notified ODTTA Rules, 2016¹⁰. These Rules define an *Aggregator* and also a *Taxi*. A *taxi is defined as meaning a motor cab having a seating capacity not exceeding six passengers excluding the driver with public service permit on contract*.

¹⁰ *The constitutional validity of these Rules is challenged in WP No. 30917/2016 and connected writ petitions. These writ petitions are disposed of by the order dated 10.11.2016. This Court has held that certain provisions of these Rules violate the Constitution but observing that even without these violating provisions, the Rules could be operated. This Court's order is called in question in different intra court appeals in W.A. No. 4787-4788/2016, and these intra-court appeals are pending consideration.*

13.2 M/s Ola and M/s Uber have been issued licenses under these Rules to operate as aggregators for motor cabs. These licenses have expired, and therefore they have filed applications for extension with the competent authority issuing notices to both to comply with certain requirements as mentioned in the corresponding communications. This aspect will not be germane for the present purposes, as the question will be whether the petitioners [M/s Ola, M/s Uber and M/s Rapido] can succeed in the request for directions to the State Government to evolve a Framework for issuance of licences to operate as intermediaries for use of Motorcycles as Taxis with the State Government taking the stand that its policy decision is not to permit *Motorcycles* [two wheelers] to be used as *Transport Vehicles* [Taxis].

13.3 If the Central Government has issued notification under Section 41[4] of the MV Act in the month of November 2004 clarifying that *Motorcycles*

will be *Transport Vehicles*, it has also brought about amendments to the MV Act *vide* the Amendment act 32 of 2019 which can enable a person [an entity] to function as an *Aggregator* offering intermediary services to those who want to offer Motor Vehicles as taxis and those who want to hail such vehicles as taxis. The Central Government has notified the Motor Vehicles Aggregator Guidelines, 2020 [for short Guidelines, 2020] providing for ***guiding framework*** to the State Governments. The Guidelines, 2020 could be read to indicate that the Central Government has provided for use of even Non-Transport Vehicles as Taxis¹¹ on the Aggregator's platforms/app.

13.4 The 2016 Report filed by the Committee, the amendments brought to the MV Act by way of Amendment Act 32 of 2019 and the Guidelines, 2020 can be presented as indicative of the Central

¹¹ A reference in this regard could be made to clause 15 as mentioned by the Apex Court in *Roppen Transportation Services Pvt.Ltd. vs. Union of India and Others*, reported in [2023]4 SCC 349.

Government's initiative to promote use of *Motorcycles* as *Transport Vehicles* [*Taxis*] and even non-transport - motorcycles to be used for Rider Sharing and the Central Government's recent Communication dated 22.01.2024 [which is referred to *supra*] leaves no room for doubt that it propounds use of *Motorcycles* as *Transport Vehicles*.

13.5 The State Government, by its order dated 20.09.2018, has constituted an Expert's Committee on *Efficient and Sustainable Transport in Bengaluru and Bike Taxis*. This Committee has filed its Report on 29.04.2019. The State Government's stand on permitting *Motorcycles* to be used as *Transport Vehicles* [*Taxis*] and even *Non-transport Motorcycles* for *Rider Sharing* is premised in this Committee's findings. This Committee comprises, amongst others, of **[a]** the Principal Secretary, Transport Department, **[b]** the Transport Commissioner, **[c]** the Commissioner BBMP, **[d]** the Managing Director, BMTC, **[e]** the Member Secretary, Karnataka State Pollution Control

Board and [f] a Senior Officer from the State Police Department. This Committee has done a SWOT analysis of implementing Bike-based mobility services in Bangalore. The Committee has interacted with different stakeholders including the representatives from M/s Ola, M/s Uber, and M/s Rapido.

13.6 The Committee has identified *Lower Fares, Travel Time Savings and Accessibility on Narrow Roads* as strengths, and *Enabling Last Mile Connectivity* as an opportunity that will be from permitting Bike Taxis. The Committee has identified *Shifting Away from Public Transport, More Vehicle Kilometres of Road, Unregulated Parking and Obstruction, Higher Carbon Emissions* as weakness and *Poor Road Usage Efficiency, Low Capacity, No Safety and Security and No Additional Utility* as threats. The Committee has examined the advantages of promoting *Bike Rentals* under *Rent a Motorcycle Scheme 1997* notified by the Central Government in exercise of its powers under Section 75 of the MV Act,

as against promoting Bike taxis. The committee has opined that:

"Bike taxis are assessed to be an unproven and inappropriate model for Bengaluru and other large Indian cities. The Committee was further not convinced by the meeting with the Bike-taxi Operators that the service will be valuable in Bengaluru. They are not a necessary service in the city given the abundant transport options available and they are more likely to aggravate the negative impacts of the Transport Sector further such as condition and contribution to pollution and carbon emissions. The bike taxis are among the least efficient modes in terms of usage of the most constrained mobility resource of roads."

The Committee ultimately has recommended that the Bike-taxis should not be permitted in Bengaluru and any existing operation should cease.

13.7 The State Government, in exercise of its powers under Section 2[38A] of the MV Act, has notified the Karnataka Electric Bike Taxi Scheme, 2021 enabling business in *e-Bike taxis* under a

license subject to certain terms and conditions. In fact, most of the petitioners have projected their grievance contending that the State Government is discriminatory in permitting e-Bikes to be used as taxis and such opportunity is denied to the owners of the *Motorcycles* with Internal Combustion Engines [ICE]. However, the State Government by its notification dated 06.03.2024 has withdrawn this notification for reasons, such as that the Scheme does not extend protection to *Women Riders*, there is continuous confrontation between auto rickshaw/maxi-cabs and Taxi Associations leading to law and order situation.

Reg. the expanse of the State Government's jurisdiction under Section 93 of the MV Act:

14. The MV Act is amended by the Amending Act 32 of 2019 providing *inter alia* for the definition of an *Aggregator* and stipulating that no *Aggregator* shall engage himself as such unless he has obtained a license from the concerned authority. The

expression *Aggregator* is defined under Section 2[1A] to mean, “a digital intermediary or a marketplace for a passenger to connect with the driver for the purpose of transportation”. The next crucial provision in the MV Act on the regulation of an aggregator’s business is Section 93. This Section first stipulates that no person shall engage himself as an Aggregator¹² unless he has obtained a license from the concerned authority. The next stipulation under this Section is that the license for an *Aggregator* shall be subject to such conditions as may be prescribed by the State Government. This Section in the first proviso mentions that the State Government may follow such guidelines as may be issued by the Central government while issuing the license to an *Aggregator* apart from stipulating that the *Aggregator* shall comply with the provisions of the Information

¹² Or as an agent or as a canvasser in the sale of tickets by public service vehicles or in otherwise soliciting customers for such vehicles or in the business of collecting, forwarding or distributing goods carried by the Goods Carriages.

Technology Act, 2000 and the Rules and Regulations made there under.

14.1 Section 93 of the MV Act, material as it is for the present purposes, is extracted and it reads as follows:

"Agent or canvasser or aggregator to obtain licence.- 1) *No person shall engage himself-*

(i) as an agent or a canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting customers for such vehicles, or

(ii) as an agent in the business of collecting, forwarding or distributing goods carried by goods carriages,

(iii) as an aggregator

unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government.

Provided that while issuing the license to an aggregator the State Government may follow such guidelines as may be issued by the Central Government.

Provided further that every aggregator shall comply with the provisions of the Information Technology Act, 2000 (21 of

2000) and the rules and regulations made there under."

14.2 The Apex court in ***Roppen Transportation Services Private Limited v. Union of India and others***¹³ has considered the efficacy of these provisions. In the case on hand before the Apex Court, the concerned Road Transport Officer rejected M/s Roppen's application for license to function as an *Aggregator* of two wheeler vehicles across the State of Maharashtra holding, amongst others, that a Scheme for Bike Taxis is not implemented. During the pendency of the ensuing writ proceedings, the State of Maharashtra issued notification prohibiting the use of two-wheelers [*Motorcycles*] as *Transport Vehicles* until a framework is put in place after a detailed consideration of all circumstances. The State of Maharashtra also constituted a Committee to come out with a framework.

¹³ [2023] 4 SCC 349

14.3 The Apex Court, because the notification issued by the State of Maharashtra prohibiting the use of two-wheelers as taxis was challenged for the first time under Article 32 of the Constitution of India, has relegated M/s Roppen to pursue its remedy against such prohibition observing that the Committee constituted by the State Government on evolving a Framework shall take its decision before 15.03.2023. On the efficacy of the guidelines framed by the Central Government the Apex Court has observed thus:

"10. The first proviso to Section 93 stipulates that while issuing a licence to an aggregator, the State Government may follow such guidelines as may be issued by the Central Government. The Guidelines which have been issued by the Central Government have a persuasive value. They are not mandatory. When the State Government formulates rules in pursuance of its power under Section 96, it may also bear in mind the Guidelines which have been framed by the Union Government in 2020. Both in terms of the first proviso to Section 93(1) and the plain terms of the

Guidelines, it is evident that while these Guidelines have to be borne in mind, the ultimate decision is to be arrived at by the State Government while considering whether to grant a licence and in regard to the formulation of rules in pursuance of the general rule-making power under Section 96."

[The underlining is by this Court]

Thus, the Apex Court, in the light of the statutory provisions and even the terms of the Guidelines, 2020 has found that the ultimate decision on whether to grant a license to an aggregator and the formulation of the rules in that regard under Section 96 of the MV Act is within the domain of the concerned State Governments.

14.4 The State Government, because of the Expert Committee's Report dated 29.04.2019 as aforesaid, and perhaps because of administrative exigencies, does not propose to evolve a framework to permit registration of *Motorcycles as Transport Vehicles*, or to grant *Contract Carriage* Permits for

Motorcycles or allow the *Motorcycles* which are registered as Non-Transport Vehicles to be hailed as Taxis, and frame guidelines to permit the *Aggregators* to operate as intermediaries between the owners of the motorcycles and the riders who hail such vehicles as taxis. The State Government, in accord with this policy decision, has also withdrawn the Scheme notified under Section 2[38A] of the MV Act which would essentially mean that even e-Bikes cannot be used as taxis. As such, the next question is, can this Court direct the State Government to revisit its stand, and the directions that must ensue if this Court could so direct the State Government.

Reg. this Court's interference with the State Government deciding not to permit Bike-taxis.

15. As has been held by this Court, while answering the other questions, a Division Bench of this Court in Writ Appeal No. 4010/2019 has held that the *Motorcycles* can be registered as *Transport Vehicles* and issued with *Contract Carriage* permits. This Court has also not accepted the canvass on

behalf of the State Government that because *Motorcycles* cannot be used on hire or reward, it cannot be *Transport Vehicles*. It could be argued from this that a certain right flows to the petitioners which cannot be defeated because of the State Government's policy.

15.1 The MV Act in Section 93 has invested the jurisdiction in the State Government to frame Guidelines [*when an aggregator is to be licensed in this regard*]. The Apex Court, in ***Roppen Transportation Services Private Limited*** [*supra*], has held that ultimately, it is in the State Government's domain to make regulations or evolve guidelines to permit *Aggregators* to enable use of motorcycles as transport vehicles. In terms of this jurisdiction, the State government has taken a policy decision [**a**] not to permit *Motorcycles* [*both e-bikes and ICE bikes*] to be registered as *Transport Vehicles* or issue *Contract Carriage* Permits and [**b**] not to

permit *Motorcycles* registered as Non-transport Vehicles to be used under Rider-Sharing.

15.2 This Court must opine that the petitioners cannot assert a right under the statute [the MV Act] to operate as aggregators to use *Motorcycles* as taxis or for *Rider Sharing* unless the State Government decides to permit the use of *Motorcycles* as *Transport Vehicles* [or non-transport Motor cycles for Rider sharing] under due Regulations/Guidelines. The right in the petitioners this regard will crystallize only when the State Government, given the dominant power that is vested in it, frames Guidelines under Section 93 and Rules under Section 96 of the MV Act [or in exercise of the power that could be otherwise under the MV Act]. The concomitant question therefore will be whether this Court can at the instance of the petitioners, who do not have a crystallised right, interfere with the State Government's policy decision and direct its officers concerned to permit the petitioners to operate as

aggregators offering their platforms to be used to ply motorcycles as taxis. If the petitioners do not have such right, must be the first ground to refuse interference.

15.3 The petitioners have also elaborately pleaded about the measures that they are individually taking to ensure the *Riders' Safety and Security*, and in this regard, some of them have mentioned about *Masking Mobile Numbers, Group Insurance, and Installation of Alarms*. Some other State Governments have permitted *Bike-taxis* under its Regulations, but this Court cannot hazard an opinion on the adequacy of the measures that are proposed to be incorporated to ensure, what is generally described as necessary regulations to provide *Rider Safety and Security*, insofar as Karnataka. The State Government, under the present statutory scheme, will have to consider the adequacy of these measures after wide consultation based on specific conditions.

15.4 The State Government has constituted an Experts' Committee, which has filed its Report [dated 29.04.2019] after interacting with different stakeholders including the representatives of some of the petitioners. It has conducted a SWOT analysis on the outcome of the possible decision to permit *Bike-taxis*. The Committee's final recommendation is that *Bike-taxis* should not be permitted in Bengaluru and any existing operations should cease. This Court cannot direct the State Government, notwithstanding its policy decision based on such Expert's Opinion, to permit the petitioners' to operate *Bike-taxi* services. The Apex Court in a string of decisions has emphasized the limited role for the constitutional Courts to interfere with the policy decisions.

15.5 This Court must refer to the decision of the Apex Court in ***Census Commissioner and others v. R Krishnamurthy***¹⁴ wherein it is held that:

¹⁴ [2015] 2 SCC 796

"It is clear as noonday that it is not within the domain of the courts to embark upon an enquiry as to whether a particular public policy is wise and acceptable or whether a better policy could be evolved. The court can only interfere if the policy framed is absolutely capricious or not informed by reasons or is totally arbitrary and founded ipse dixit offending the basic requirement of Article 14 of the Constitution. In certain matters, as often said, there can be opinions and opinions but the court is not expected to sit as an appellate authority on an opinion."

This proposition is also reiterated by the Apex Court in the recent decision in ***State of Tamil Nadu and another v. National South Indian River Interlinking Agriculturist Association***¹⁵.

15.6 Further, this Court, upon reading of the different areas mentioned in sub-section 2 of Section 96 of the MV Act, is not persuaded to opine that every aspect specific to *Bike-taxi* Services is covered under the KMV Rules. The State Government, which is

¹⁵ [2021] 15 SCC 534

empowered under Section 96 of the MV Act to make rules providing for a variety of measures under subsection 2 thereof, could under these provisions notify necessary Rules when it is of the opinion that it is expedient to provide for *Bike-taxi* Services. The State Government could also have recourse to its powers under the other provisions of the MV Act to formulate and notify necessary Rules specifying the terms and conditions upon which *Motorcycles* could be permitted to be registered as *Transport Vehicles* and for issuing *Contract Carriage Permit*. The specific Rules, given the different aspects emphasized by the Expert's Committee Report dated 29.04.2019 and the safety concerns, must be in place for the *Motorcycles* to be used as *Transport Vehicles*.

15.7 Therefore, it must be concluded that if the petitioners do not have a crystallized right under the MV Act, if the Experts' Committee has opined that *Bike-taxis* must not be permitted in Bengaluru and if the specific rules are not in place, this Court cannot

direct the State Government, notwithstanding its policy decision, to continue permitting the petitioners to operate as *Aggregators for Bike-taxis*. This Court must observe that the State Government must be alive to the emerging circumstances and the evolving local conditions, and it cannot shut itself to the possibilities of the emerging trends and technologies. If the circumstances justify a new approach, the State Government should not lag behind and it should be open even to the petitioners, to goad the State Government to such a change. This Court should in this context muse, as it is famously said, that an institution which refuses change becomes the architect of decay.

16. M/s Rapido, M/s Ola and M/s Uber [the petitioners in WP No. 14627/2021, WP No.19869/2021 and WP No.6421/2022 respectively] have the advantage of this Court's direction vide Interim Orders dated 11.08.2021, 18.02.2022 and 12.04.2022 to the respondents not to be

precipitous¹⁶. It is brought on record that in terms of these interim orders these petitioners are operating Bike-taxi services. It follows that these petitioners have put in some infrastructure in place and enrolled riders [the owners of motorcycles]. They must be given reasonable time to dismantle such infrastructure and cease their respective *Bike-taxi* services. This Court finds that it will be just to grant M/s Rapido reasonable time to cease operating as an Aggregator offering *Bike-taxi Services*.

In the light of afore, the following:-

ORDER

[A] The petitions are disposed of declaring that, unless the State Government notifies relevant Guidelines under Section 93 of the Motor Vehicles Act, 1988 and Rules thereunder, the petitioners cannot operate as

¹⁶ At the time of pronouncement, it is pointed out by Mr. Srinivasan Raghavan V, the learned Senior Counsel and Mr. Shashi Kiran Shetty, the learned Advocate General that with all these, the petitioners are operating Bike-taxi services and therefore consequential changes have been made.

Aggregators offering Bike-Taxi Services and the Transport Department, State of Karnataka cannot be issued with directions to register *Motorcycles* as Transport Vehicles or issue *Contract Carriage* Permits.

[B] The petitioners, [M/s Uber India Systems Private Limited, M/s Roppen Transportation Services Private Limited and M/s ANI Technologies Private Limited] are permitted six [6] weeks from today to cease all their operations as aggregators of *Bike-taxis*. The State Government is called upon to ensure that all Bike Taxi Operations are stopped after these six [6] weeks.

**Sd/-
(B M SHYAM PRASAD)
JUDGE**

*nv**