

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1730 OF2016

Association of Radio Taxis .. Petitioner.
v/s.
Commissioner of Transport ,
Maharashtra State & Others .. Respondents.

Mr. Aspi Chinoy, Sr. Advocate with Mr. Zerick Dastur, Ms. Prerna Arora and Ms. Aashni Dalal i/b. J. Sagar Associates, for the Petitioner.
Mr. Iqbal Chagla, Sr. Advocate with Mr. Jehaan Mehta, Mr. Faisal Sherwani, and Mr. Gurpreet Singh Kahlon i/b. Ms. Sharon Patole, for Respondent No.5.
Ms. Uma Palsule-Desai, AGP, for Respondent-State.

**CORAM: M.S.SANKLECHA, &
S.C.GUPTE, JJ.
DATE : 6th OCTOBER, 2016.**

P.C:-

RULE.

2 This Petition seeks a direction to the State Government and Ministry of Communications & Information Technology, Government of India to take necessary action to prevent Respondent Nos.5 to 8 i.e. ANI Technologies Pvt. Ltd., Uber India Systems Pvt. Ltd., and Uber BV from using/ operating tourist vehicles for intra-city transport contrary to the provisions of Motor Vehicles Act, 1988 (the M.V. Act).

3 Petitioner is an Association of Radio Taxis operators and its members carry out Radio Taxi fleet operation in the city of Mumbai under a permit granted by the State Transport Authority, Maharashtra.

4 It is the Petitioner's case that the tourist vehicles as defined under the M. V. Act as vehicles for contract carriage are to be used only for the purpose of promoting tourism. However, Respondent Nos. 5 to 8 have entered into contracts / arrangements with owners / operators of tourist vehicles and are using them for intra-city transport of ordinary commuters (not tourists). This according to the Petitioner is an illegal parallel Taxi Service without having necessary license or registration as required of Taxi Services under Section 74 of the M.V. Act and the Fleet Taxi Service Scheme.

5 Consequently, the obligation cast under the M.V. Act upon the members of the Petitioner and others running similar intra-city tourist vehicles services, is evaded by Respondent Nos. 5 to 8 by having entered into an arrangement/ contract with tourist vehicles and using them for intra-city transport. It is submitted that in terms of Section 88 (9) of the M.V. Act, permits are granted to tourist vehicles for the purpose of promoting tourism. It is submitted that intra-city transport of persons by Respondent Nos. 5 to 8 by using tourist vehicles is contrary to the mandate of Section 88(9) of the Act.

6 In the above facts, interim relief is sought for injuncting Respondent Nos. 5 to 8 from using tourist vehicles to provide intra-city services. Further, directions to the State Government to take necessary action against Respondent Nos. 5 to 8 and the owners/ operators of the tourist vehicles being used by Respondent Nos. 5 to 8 are also sought.

7 This Petition has been filed on 15th June, 2016. Respondents have been providing this facility and using tourist vehicles for intra-city

transport at least since February, 2014 in the city of Mumbai. There is no explanation for the delay. Further, the contention of the Petitioner – whether tourist vehicles are barred from being used for intra-city transport in view of Section 88(9) of the M. V. Act is an issue which would require consideration at the final hearing. Section 88(9) of the M.V. Act grants permits in respect of tourist vehicles for the purpose of promoting tourism. The examination would necessarily involve determining the correct meaning of the word 'tourism' in today's context. Further, we would also have to examine whether when the purpose of granting permits to tourist vehicles is to develop/ promote tourism, any other use of tourist vehicle, is prohibited i.e. even when not in use as a tourist vehicle. If not, would such tourist vehicles have to comply with all obligations required to be complied with by Radio Taxi Operators when used in the manner in which they are used by Respondent Nos.5 to 8. These are the issues which would require consideration at the final hearing as they are debatable.

8 Further, the State Government in its affidavit dated 1st September, 2016 filed by one Mr. V.A. Malegaonkar, states that the State Government is consulting the views of various stakeholders. This with a view to devise a Regulation to reconcile the divergent views on the issue.

9 Accordingly, **interim relief is refused.**

However, Petition is expedited. Liberty to apply.

(S.C.GUPTE,J.)

(M.S.SANKLECHA,J.)