

ÖOSLP CC 18614-15/15

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ITEM NO.1

COURT NO.4

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C)...CC Nos.18614-18615/2015
(Arising out of impugned final judgment and order dated 26/06/2015
in PIL No. 38/2015,26/06/2015 in PIL No. 42/2015 passed by the
High Court of Gauhati)
UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

RITA DAS MOZUMDAR & ORS. & ETC. ETC

Respondent(s)

(With c/delay in filing SLP)

WITH S.L.P.(C)...CC 3086/2015

(With office report)

S.L.P.(C) No.5641/2015

(With appln.(s) for permission to file additional documents and
interim relief and office report)

S.L.P.(C) No.5639/2015

(With office report)

S.L.P.(C) No.5642/2015

(With office report)

S.L.P.(C) Nos.7369-7370/2015

(With office report)

T.P.(C) Nos.341-349/2015

(With appln.(s) for permission to intervene by the applicant
above-named and appln.(s) for stay and appln.(s) for permission to
appear and argue in person and appln.(s) for intervention and
appln.(s) for intervention and office report)

S.L.P.(C) No.5638/2015

(With office report)

S.L.P.(C) Nos.5176-5177/2015

(With interim relief and office report)

T.C.(C) No.70/2015

(With Interim Relief and Office Report)

T.C.(C) No.68/2015

(With appln.(s) for permission to file additional documents and
interim relief and office report)

T.C.(C) No.69/2015

(With appln.(s) for intervention and appln.(s) for bringing on
record the additional facts and interim relief and office report)

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T.C.(C) No.72/2015

(With appln.(s) for intervention and appln.(s) for intervention
and appln.(s) for bringing on record the additional facts and
interim relief and office report)

T.C.(C) No.71/2015

(With appln.(s) for intervention and appln.(s) for bringing on
record the additional facts and interim relief and office report)

T.C.(C) No.73/2015

(With appln.(s) for intervention and appln.(s) for bringing on
record the additional facts and interim relief and office report)

T.C.(C) No.105/2015

(With interim relief and office report)

S.L.P.(C) No.1864/2015

(With appln.(s) for recalling the court's order and appln.(s) for
permission to file additional documents and appln.(s) for
directions and appln.(s) for permission to file additional
documents and office report)

Date: 09/12/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Mukul Rohatgi, A.G.

Ms. Pinky Anand, ASG

Ms. Vibha Dutta Makhija, Sr. Adv.

Mr. D. S. Mahra, AOR

Mr. T. Harish Kumar, AOR

Mr. Navneet Dugar, Adv.

Mr. P. Chidambaram, Sr. Adv.

Dr. A.M. Singhvi, Sr. Adv.

Mr. Shyam Divan, Sr. Adv.

Mr. Shriraj Dhruv, Adv.

Mr. E. C. Agrawala, AOR

Ms. Kiran Suri, Sr. Adv.

Mr. S.J. Amith, Adv.

Mr. Sourav Arora, Adv.

Dr. (Mrs.) Vipin Gupta, AOR

Mr. S. Mohapatra, Sr. Adv.

Mr. Soumyajit Pani, Adv.

Mr. Vishnu Sharma, AOR

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Mr. Gopal Subramaniam, Sr. Adv.

Mr. Tripurari Ray, Adv.

Mr. Rohit Singh, Adv.

Mr. Vishnu Sharma, AOR

Mr. K.V. Vishwanathan, Sr. Adv.

Mr. Tripurari Ray, Adv.

Mr. Rohit Singh, Adv.

Mr. Vishnu Sharma, AOR

Mr. C.A. Sundaram, Sr. Adv.

Mr. Tripurari Ray, Adv.

Mr. Rohit Singh, Adv.

Mr. Vishnu Sharma, AOR

For Respondent(s) Mr. K.V. Vishwanathan, Sr. Adv.

Mr. Arunima Dwivedi, AOR

Mr. Rohit Singh, Adv.

Mr. Mohan Parasaran, Sr. Adv.

Mr. Zoheb Hossain, Adv.

Mr. Rauf Rahim, AOR

Mr. T.R. Andhyarujina, Sr. Adv.

Mr. Anil Kaushik, Adv.

Mr. Shiv Prakash Pandey, AOR

Mr. K.K. Venugopal, Sr. Adv.

Mr. Rohit Singh, Adv.

Mr. Zoheb Hossain, Adv.

Mr. Rauf Rahim, AOR

Mr. Dushyant A. Dave, Sr. Adv.

Mr. Tripurari Ray, Adv.

Mr. Rohit Singh, Adv.

Mr. C.S. Ashri, Adv.

Mr. B. Balaji, AOR

Mr. Muth Kirshan, Adv.

Mr. S. Udaya Kumar Sagar, Adv.

Mr. Krishna Kumar Singh, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Mr. Gopal Subramaniam, learned senior counsel appearing for the petitioners has submitted that introduction of quadricycle as a vehicle does not come within the

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dictionary clause as enshrined under Section 2(25), 2(26) and 2(27) of the Motor Vehicles Act, 1988 (for short, 'the 1988 Act'). It is further urged by him that, however, it would come within Section 2(28) of the 1988 Act. Learned senior counsel has drawn our attention to Chapter VII of the 1988 Act, especially Sections 109 to 111 which deal with construction, equipment and maintenance of motor vehicles. Emphasis is on the safety on the road as such a submission

has been advanced in the backdrop of Article 21 of the Constitution and the statutory provisions. Learned senior counsel has drawn our attention to the Central Motor Vehicles Rules, 1989 (for short, 'the Rules'), especially to Rule 2(1). The said Rule reads as follows:-

â S 2(1) 'Category M1' means a motor vehicle used for carriage of passengers, comprising not more than eight seats in addition to the driver's seat.

Note .- Definitions of type of body work for motor vehicles of Category M1 shall be in accordance with Annexure 1 of AIS 053:2005, as amended from time to time, till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986 (63 of 1986);]

Thereafter, he has referred us to Rule 2(m) to 2(rf). It is emphatically put forth by him that though the Note appended to Rule 2(1) refers to M1 category, yet all the categories of vehicles that come on road or likely to come on

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road have to meet the standard prescribed by the Bureau of Indian Standards. It is further urged by him that Rule 2(z) introduces 'Squadricycle' as a four wheeled vehicle having certain features seems to appear to be complete in itself, but it cannot remain alien to the command of Note to Rule 2(1), for that insists on getting clearance for the purpose of safety.

In course of hearing Mr. Gopal Subramaniam and Mr. C.A. Sundaram, learned senior counsel, has referred us to the Check List of Draft Amendment No.3 of 2014. It reads as follows:

â S 1. Page No.8/14, after clause 3.11.

Insert new clause 3.12 as follows:

3.12 Category L7-Quadricycle- Means a vehicle defined in clause (2) of G.S.R.99(E)

3.12.1 Category L7-M: means a quadricycle of category L7 used for carrying passengers, having seats not more than 4 (including driver) and kerb weight not exceeding 450 kg.

3.12.2 Category L7-N: means a quadricycle of category L7 used for carrying goods, having seats not more than 2 (including driver) and kerb weight not exceeding 550 kg.

Explanation: Kerb weight of the vehicle referred in 3.12, 3.12.1 and 3.12.2 shall be as per IS 9211:2003 but does not include the following:

a) weight of batteries in the case

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of electric/hybrid vehicles or,
b) weight of gaseous fuel system including tanks for gaseous fuel storage in the case of mono, bi or multi-fuel vehicles.â \235

Referring to the same, it is canvassed that by virtue of introduction of the new clause, an endeavour has been made by the Central Government to reduce the rigor of standard only to cover quadricycle, which is impermissible. Learned senior counsel would contend that the Central

Government has the authority to amend the standards from time to time, but regard being had to the number of vehicles on the road and the prevalent conditions, by no stretch of imagination, the rigor cannot be reduced. On the contrary, contend learned senior counsel that the strictness may be enhanced, for there cannot be a situation where it can be lessened. The primary concern, as it appears to us, is the safety of the people who travel on the road and the nature and character of the vehicle i.e. quadricycle, when it will come on the road and its affect. Needless to say, the Court is not an expert in this matter, but indubitably there has to be a clearance from the competent authority, i.e. Bureau of Indian Standards or Automobile Industries Standard (AIS).

Ms. Pinky Anand, learned Additional solicitor General appearing for the Union of India would submit that the vehicle, quadricycle, is being covered under Rule 2(z)

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of the Rules and there is specific safety standards for the quadricycle.

Regard being had to the aforesaid rivalised submissions, we would like to peruse the file in entirety which deals with the safety standards in this regard. Let the file be produced by the Central Government on the next date of hearing.

Let the matter be listed on 20 th January, 2016.

Learned counsel for the parties shall file their respective convenience volumes by 10 th January, 2016.

(Chetan Kumar)

Court Master (H.S. Parasher)

Court Master