

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (C) No. 534/2020

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY PRIVATE LTD. Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([TO BE TAKEN UP AT 2.00 P.M.] ...MR. N. VIJAYARAGHAVAN, A.C.

IA No. 121017/2022 - APPLICATION FOR EXEMPTION FROM PAYMENT OF COSTS, IA No. 52588/2020 - EX-PARTE AD-INTERIM RELIEF, IA No. 140335/2022 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 121023/2022 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 152377/2022 - EXEMPTION FROM FILING O.T., IA No. 121014/2022 - INTERVENTION/IMPLEADMENT AND IA No. 140333/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(Crl) No. 9264/2019 (II-C)  
(FOR ADMISSION and I.R.)

MA 194-195/2020 in C.A. No. 2476-2477/2019 (XIV-A)  
(FOR ADMISSION and IA No.182922/2019-INTERVENTION/IMPLEADMENT and IA No.182946/2019-INTERVENTION/IMPLEADMENT and IA No.182950/2019-RECALLING THE COURTS ORDER and IA No.176990/2019-RECALLING THE COURTS ORDER and IA No.176988/2019-APPLICATION FOR PERMISSION and IA No.182943/2019-APPLICATION FOR PERMISSION)

Date : 27-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE S.V.N. BHATTI

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**Ms. Akanksha Tomar, Adv.**

**Mr. Argha Roy, Adv.**

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Mr. Karthik Jayashankar, Adv.  
Mr. Anshumaan Bahadur, Adv.  
Mr. P.B.Sashaankh, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Heard learned counsel appearing for the parties.

The first issue is with respect to the mobile application to be created by the Union of India. It has been informed to us during the hearing that the mobile application has been developed and uploaded. The efficacy of the said mobile application is yet to be seen, for which we would like to hear and elicit feedback from the learned counsel appearing for the parties.

The second issue is on the procedural aspects in giving effect to Rule 150A of the Motor Vehicles (Amendment) Rules, 2022. Learned counsel who has filed application M.A. Nos. 194-195 of 2020 in C.A. Nos. 2476-2477/2019 is directed to furnish the difficulties faced either by the litigant or his counsel to the learned Amicus Curiae within a period of three weeks from today.

The third issue is with respect to the detailed direction issued by order dated 10.02.2022 directing the State Transport Corporations and the State Governments concerned to take a call as

to whether they would opt for insurance coverage of their transport vehicles or create a corpus as directed. The said order is reproduced hereunder:

"In view of the aforesaid, we are not inclined to accept the submission of learned counsel for the applicants to make an exception in respect of the Corporations in question but we are inclined to grant a reasonable period of time to create the requisite corpus by the State Government. We grant time till 30th April, 2022. We are also inclined to accept the suggestions of learned ASG that this time period should be extended for the other Corporations/State Governments also who may not have taken cognizance of their responsibility and accordingly extend the time even for those entities/State Governments. Learned ASG will ensure that the order is circulated to all the concerned State Governments and Corporations for necessary compliances and the State Governments and Corporations will inform the learned ASG under the mandate of this order of their compliances on or before 15th May, 2022 for the learned ASG to inform us of their compliances.

One of the suggestions which arose in these proceedings was that though the Central Government have not found it feasible to make an exemption, we see no reason why anything prevents the State Corporations from taking the burden of ensuring the vehicles are insured by making payment of insurance premium and thus, absolving themselves of the liability and responsibility of creating a corpus.

We thus, leave it to the Corporations/State Governments to look into the feasibility of the same if that is a route they would like to follow instead of creating a separate fund for it under our directions in order dated 16.11.2021. However, this will not preclude them from the compliance of our directions initially to create corpus.

We would urge the learned ASG to once again re-examine the issue of exemption under Section 146(3) though he had submitted to the contrary earlier in view of much water having flowed and the complexity of the problem which we are faced with at present. Be that as it may, despite the direction, to meet the interregnum situation, we direct that if any State/Public Corporation is desirous of insuring its vehicles, the insurance companies will not decline to give insurance on the ground that an exemption has been provided under Section 146 and will work out an appropriate premium.

This aspect is also taken note of by the learned senior counsel, Mr. Atul Nanda who is present on behalf of the apex body of the insurance company, GIC.

Learned counsel for the UT of Puducherry stays that in fact insofar as the Puducherry is concerned, the Government Corporation vehicles are already ensured with the Government Insurance Corporation.

With the aforesaid directions, the applications stand disposed of."

Despite the order having been passed a long time ago, there is no material on record pertaining to this issue. However, we are inclined to grant a further period of four weeks to all the Public Transport Corporations and the State Governments/Union Territories to come up with their response. They are also directed to convey their decision to the learned Amicus Curiae who will assist us on this issue.

The fourth issue is with respect to the TDS deduction qua the award passed. It is stated that there are contradicting views on this issue by different High Courts. Learned Amicus Curiae submitted that the decision of the High Court of Bombay has become final and it was rendered after hearing the State Transport Corporations.

We have been informed by the learned Amicus that on the issue of TDS deduction, the following SLPs are pending before this Court:

- SLP (C) NO.20686/2015 - Commissioner of Income Tax Vs. The H.P.State Cooperative Bank Ltd. & Ors.
- SLP (C)No. 11080/2017- The MD, TNSTC (Salem) Ltd. Vs. Chinnadurai & Anr.



- SLP (C)No. 17044/2021 - Oriental Insurance Co. Ltd. Vs. Kewal Kumar
- SLP (C)No. 8394/2022 - The Oriental Insurance Co. Ltd. Vs. Shamshad Ali & Ors.

Therefore, in terms of the order dated 28.07.2022, we direct the Registry to place the papers of these SLPs before Hon'ble the Chief Justice of India for obtaining appropriate orders.

Cause title of the Writ Petition indicates that U.T. of Chandigarh is not a party before us in these proceedings, therefore, U.T. of Chandigarh shall be impleaded as a party respondent and the U.T. of Chandigarh is directed to do the needful on these issues.

We do not wish to take up all these issues at the same time. Therefore, issue Nos. 1 and 2 would be taken up on the next date of hearing.

On these two issues, we would like to hear the parties before venturing into the other two issues raised.

Call the matter for further hearing on issue Nos. 1 and 2 after six weeks at 2.00 P.M.

Learned Amicus Curiae is directed to file a report on both issues after getting the requisite inputs from the Transport Corporations, State Governments/Union Territories and the applicants in M.A. Nos. 194-195 of 2020.

(RAJNI MUKHI)  
COURT MASTER (SH)

(POONAM VAID)  
COURT MASTER (NSH)