

[2023 LiveLaw \(SC\) 108](#)

**IN THE SUPREME COURT OF INDIA**

**DR. D.Y. CHANDRACHUD; CJI., PAMIDIGHANTAM SRI NARASIMHA; J., J.B. PARDIWALA; J.**  
Special Leave to Appeal (C) No(s).5705/2022

**UBER INDIA SYSTEMS PRIVATE LIMITED & ANR. versus UNION OF INDIA & ORS.**

**Motor Vehicles Act, 1988; Section 93 - No person can continue as an aggregator in the absence of a licence- Supreme Court directs Uber to apply for license.**

**Motor Vehicles Act, 1988; Section 93, 96 - Cab aggregators license- Supreme Court directs State of Maharashtra to expeditiously frame the rules on granting aggregators license so as to avoid litigation and uncertainty.**

(Arising out of impugned final judgment and order dated 07-03-2022 in PILL No. 9775/2020 passed by the High Court of Judicature at Bombay)

*For Petitioner(s) Mr. Dhruv Mehta, Sr. Adv. Ms. Pritha Srikumar, AOR Mr. Atharv Gupta, Adv.*

*For Respondent(s) Mr. Tushar Mehta, Solicitor General Mr. Siddharth Dharmadhikari, Adv. Mr. Aaditya Aniruddha Pande, AOR Mr. Bharat Bagla, Adv. Ms. Kirti Dadheech, Adv. Respondent-in-person Ms. Fereshte D Sethna, Adv. Ms. Anuradha Dutt, Adv. Ms. Suman Yadav, Adv. Mr. Chaitanya Kaushik, Adv. Ms. Shivani Sanghavi, Adv. Mr. Shubham Airi, Adv. Ms. B. Vijayalakshmi Menon, AOR*

**ORDER**

**1** The Special Leave Petition arises from an interlocutory order dated 7 March 2022 of a Division Bench of the High Court of Judicature at Bombay in Public Interest Litigation (L) No 9775 of 2020.

**2** The petitioners claim to be aggregators within the meaning of Section 2(1A) of the Motor Vehicles Act 1988<sup>1</sup>, as amended by Act 32 of 2019. An aggregator is defined to mean a digital intermediary or market place for a passenger to connect with a driver for the purpose of transportation. Section 93 was amended by the Amending Act so as to encompass the business of aggregators. Sub-section (1) of Section 93, *inter alia*, stipulates that no person shall engage himself 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. As in the case of other statutes, Section 2(32) defines the expression “prescribed” to mean prescribed by rules made under the Act. The State Government is conferred with a rule making power, *inter alia*, by Section 96(1) in terms of which it may make rules for the purpose of carrying into effect the provisions of Chapter.

**3** The first proviso to Section 93(1) stipulates that, while issuing a licence to an aggregator, the State Government may follow such guidelines as may be issued by the Central Government. Though draft rules were issued by the State Government, no rules have been notified by the State Government as of date. The Central Government has formulated Guidelines in 2020.

**4** The provisions noted above have been construed recently in a judgment of this Court in **Roppen Transportation Services Pvt Ltd v Union of India**<sup>2</sup>

**5** The Division Bench of the High Court, by the impugned order dated 7 March 2022, observed that in view of the statutory mandate of Section 93(1), no person could be allowed to continue as an aggregator without obtaining a licence. Taking note

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<sup>1</sup> “Act”

<sup>2</sup> Special Leave Petition (C) No 3006 of 2023 decided on 7 February 2023

of the fact that the rules were at the draft stage, the High Court has observed that till such time that draft rules are finalized, the Guidelines of 2020 would hold the field and any person willing to operate as an aggregator must follow the regulatory framework brought about by the Guidelines. Taking note of the statutory regime which was brought into force in 2019 by the amendment of Section 93, the Division Bench observed that the second respondent had permitted aggregators, such as the petitioners, to operate in Maharashtra without insisting on compliance with the statutory requisites and though no statutory licences were obtained. While balancing the equities, the Division Bench held that instead of restraining the petitioners herein from operating in the State, it was inclined to grant an opportunity both to the petitioners and to other unlicensed aggregators to apply for licences as required by sub-section (1) of Section 93. The following interim directions were issued in paragraph 10 of the interim order dated 7 March 2022:

“10. For such purpose, we direct the Transport Department of the State Government to issue appropriate notification in the Official Gazette forthwith and not later than 9<sup>th</sup> March, 2022 empowering each and every Regional Transport Authority in the State of Maharashtra to act as the Licencing Authority for grant of license under subsection (1) of section 93 of the Act. Since the 2020 Guidelines also refer to an Appellate Authority in paragraph 18, it would be prudent for us to direct that the provisions of section 89 of the Act, which is also part of Chapter V, may be followed in such a case. The State Transport Appellate Tribunal or similar such authority, by whatever name called, shall be the Appellate Authority. We are informed that the Chairman of the Motor Accident Claims Tribunal, Maharashtra, functions in the State as the State Transport Appellate Tribunal and, therefore, such Tribunal shall also be notified to be the Appellate Authority for the purposes of the 2020 Guidelines. In the notification to be published in terms of this order, the Transport Department shall indicate that all the aggregators operating in the State of Maharashtra may apply for license by 16<sup>th</sup> March, 2022. If any application is received by any Regional Transport Authority from the prospective licensees, earnest endeavour shall be made to convene urgent meeting of such Transport Authority to consider such application, as early as possible but not later than a fortnight from date of receipt thereof. In the event the concerned aggregator / prospective licensee agrees to comply with the conditions laid down in the 2020 Guidelines, issuance of license in its favour shall not be unnecessarily delayed. In the event any application is rejected, the concerned aggregator shall be at liberty to file an appeal under section 89 of the Act read with paragraph 18 of the 2020 Guidelines before the empowered Appellate Authority.”

**6** It was against the interim order which was passed in the PIL that this Court was moved under Article 136 of the Constitution by Uber India Systems Private Limited (the first petitioner) and Uber India Technology Private Limited (the second petitioner).

**7** While issuing notice in these proceedings on 21 April 2022, this Court directed that the *status quo*, as it exists, shall be maintained until further orders.

**8** During the course of the hearing, it has emerged both from the submissions of Mr Dhruv Mehta, senior counsel appearing on behalf of the petitioners, and Mr Siddharth Dharmadhikari, counsel appearing on behalf of the State of Maharashtra, that a provisional licence was issued to the petitioners. The licence was valid for a period of thirty days.

**9** The grievance of the petitioners is that certain conditions which have been imposed by the State for the grant of a licence such as: (i) the requirement of maintaining an office in fifty jurisdictional offices of the Road Transport Authority; and (ii) maintaining a simulator, as well as certain other aspects may not be practicable for compliance.

**10** This is a matter of policy which pertains to the jurisdiction of the State Government.

**11** We are of the view that it would not be appropriate to continue with the present proceedings, which arise from an interlocutory order of the High Court. As correctly observed by the Division Bench of the High Court, in view of the statutory regime which has come into force with the amendment of Section 93 by the Amending Act of 2019, no person can continue as an aggregator in the absence of a licence. We accordingly permit the petitioners to apply for a licence within a period of three weeks, that is, on or before 6 March 2023. Within the aforesaid period, it would be open to the petitioners to submit a representation to the State Government in regard to the conditions which were imposed while granting a provisional licence to the petitioners. The State Government shall, within a period of two weeks from the date of the submission of the representation, take a considered view on the grievance which has been set forth in the representation of the petitioners. We clarify that we have not expressed any observations on the merits of such a grievance. Thereafter, the State Government may take an appropriate decision so that pending the finalization of the rules, an appropriate decision is taken in regard to the applications for the grant of licence in terms of the provisions of Section 93(1) of the Act. If the petitioners have any subsisting grievance, it would be open to them to move the High Court of Judicature at Bombay either in the pending Public Interest Litigation or independently so that the merits of their grievance(s) can be considered by the High Court.

**12** Since the interim order of this Court has held the field since 21 April 2022, we extend its operation till 20 April 2023 in order to enable the petitioners to apply for a licence and for the State Government to take an appropriate decision. The State Government, which has to act as a regulator, must take an expeditious decision on the formulation of an appropriate policy, which may be embodied in terms of the rules which are framed under the Act. The decision of the State Government should be taken expeditiously so as to avoid litigation and uncertainty.

**13** The Special Leave Petitions are accordingly disposed of.

**14** Pending applications, including the application for intervention, stand disposed of.