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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6340/2017 and C.M. No. 55699/2019

AARSHI R KAPOOR & ANR Petitioner

Through: Mr. Anil K. Aggarwal and Ms. Nitu
Yadav, Advocates.

versus

UNION OF INDIA & ANR Respondent

Through: Mr. Anurag Ahluwalia, CGSC for
Respondent/ UOI.
Mr. Abhishek Nanda, Advocate for
Respondent NO.2.
Mr. Anil Aggarwal, Proxy Counsel
for Respondent No.3.
Mr. Deepak Pandey and Mr. Aashish
Gupta, Advocates for Respondent
No.4.

+ W.P.(C) 1498/2018 and C.M. Nos. 6143/2018 & 40306/2019

MD. ASIF Petitioner

Through: Mr. Anil Aggarwal, Proxy Counsel.

versus

UNION OF INDIA AND ORS. Respondent

Through: Mr. Anil Soni, CGSC with Mr.
Devvrat Yadav and Mr. Prateek Rana,
Advocates for Respondent/ UOI.
Mr. Deepak Pandey and Mr. Aashish
Gupta, Advocates for Respondent
No.4.

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**ORDER
03.05.2023**

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W.P.(C) 6340/2017 and C.M. No. 55699/2019

1. The present PIL has been filed by the Petitioner raising a serious concern in respect of heavy steel/ metal bars which are either sold as Crash Guards/ Bull Bars on front and rear ends of all sorts of vehicles in the country.
2. The Petitioner's contention is that because of heavy Crash Guards/ Bull Bars, in case of an accident, the pedestrians and other vehicles which are not fitted with those kind of bars are suffering, deaths are taking place, fatal injuries are taking place and the vehicles manufacturers do not provide for such Bull Bars/ Crash Guards at the time of manufacturing/ sale of the vehicle. He has also stated that because of Crash Guards/ Bull Bars, the mechanism which is in place in respect of air bags also does not operate in time.
3. The Petitioner has prayed for the following reliefs.
“(a) to issue a writ of mandamus and/or any other appropriate writ/s, order/s or direction/s directing the respondent no.1 to exercise its statutory power under the Motor Vehicles Act, 1988, in relation to road safety and regulation of construction, equipment and maintenance of motor vehicles to prohibit installation and use of after-market rigid steel/metal frames and bars popularly known as "Crash Guards" or "Bull Bars" on the front and rear ends of all types and categories of motor vehicles; and prohibit running on road of all motor vehicles installed with and supporting "Crash Guards" or "Bull Bars";

and

(b) to issue a writ of mandamus and/or any other appropriate writ/s, order/s or direction/s directing the respondent no.1 to exercise its statutory power under the Motor Vehicles Act, 1988, in relation to road safety and regulation of construction, equipment and maintenance of motor vehicles to prohibit modification of construction and equipments of all types and categories of motor vehicles impairing any inbuilt safety features and safety devices of the motor vehicles and / or affecting crashworthiness of motor vehicles in any manner; and prohibit running on road of all such vehicles; and

(c) to issue a writ of mandamus and/or any other appropriate writ/s, order/s or direction/s suo-moto prohibiting installation and use of after-market rigid steel/metal frames and bars popularly known as "Crash Guards" or "Bull Bars" on the front and rear ends of all motor vehicles registered in NCT of Delhi and also prohibit running of all motor vehicles installed with and supporting "Crash Guards" or "Bull Bars" including the motor vehicles entering in National Capital Territory of Delhi from other States and Territories on the roads of NCT of Delhi, till such time the respondent no.1 take necessary steps; and

(d) to issue a writ of mandamus and/or any other appropriate writ/s, order/s or direction/s directing the respondent no.2 to exercise its statutory power under the Insurance Regulatory and Development Authority Act, 1999 to prescribe terms and conditions of motor vehicle insurance offered by the insurer to not to insure motor vehicles installed with and using "Crash Guards" / "Bull Bars" and /or motor vehicles having modified construction and equipments, impairing inbuilt safety features and safety devices of the motor vehicle and / or affecting crashworthiness of motor vehicle in any manner; and

(e) Pass such other writ/s, order/s or direction/s as this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice including cost to the petitioners."

4. The Respondent/ Union of India has filed a counter-affidavit through the Director (MVL), Ministry of Road Transport and Highways. It has been

stated that in exercise of power conferred under Section 109 and 110 of the Motor Vehicles Act, 1988 (MV Act), the Ministry of Road Transport and Highways has issued a notification vide No. S. O. 411(E) dated 09.02.2016 wherein the Indian Standard IS15901:2010 regarding requirement for bumpers fitted on M1 category of vehicles has been notified with effect from 01.10.2016. The notification is reproduced as under:

*“MINISTRY OF ROAD TRANSPORT AND HIGHWAYS
NOTIFICATION*

New Delhi, the 9th February, 2016

S.O. 411(E).—In exercise of the powers conferred by subsection (3) of section 109 and clause (k) of subsection (1) of section 110 of the Motor Vehicles Act, 1988 (59 of 1988), read with sub-rule (1) of rule 124 of the Central Motor Vehicles Rules, 1989, the Central Government hereby makes the following further amendments in the notification of Government of India in the erstwhile Ministry of Shipping, Road Transport and Highways (Department of Road Transport and Highways) number S.O. 1365(E) dated 13th December, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (ii), namely:-

(2) In the said notification, in the Table,-

(i) for serial number 11 and the entries relating thereto, the following shall be substituted, namely:-

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>“11.</i>	<i>The external projection on all motor vehicles other than three wheelers of engine capacity less than 500 cc and motor</i>	<i>IS 13942:1994, as amended from time to time, for vehicle categories mentioned therein.</i> <i>AIS-</i>	<i>Date of commencement: 13th December, 2004 Valid up to 30th September, 2017 for new models of M1 category vehicles and 30th</i>

	<i>cycles.</i>	<i>120/2014, as amended from time to time, for M1 vehicle categories mentioned therein.</i>	<i>September, 2019 for existing models of M1 category vehicles; For new models: 1st October, 2017 ” For existing models: 1st October, 2019”</i>
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(ii) for serial number 18 and the entries relating thereto, the following shall be substituted, namely:-

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>“18.</i>	<i>Identification of Controls, Tell-Tales and Indicators and Control Location and Operation Requirements on motor vehicles including agricultural tractors and construction equipment vehicles</i>	<i>AIS-071/2009 (Part-1 and Part-2), as amended from time to time.</i>	<i>For all vehicles, including construction equipment vehicles, other than agricultural tractors and two wheeled vehicles: For new models: 15th March, 2013; For existing models: 15th March, 2014; For agricultural tractors: Engine capacity below 37 kW:</i>

			<p><i>1st April, 2013; Engine capacity 37 kW or above: 1st April, 2014; For two wheeled vehicles: For new models: Date of commencement: 15th March, 2013 Valid up to: 30th September, 2016 For existing models: Date of commencement: 15th March 2014 Valid up to: 30th September, 2017</i></p>
18-A	<p><i>Location, identification and operation of Controls, Tell-tales and Indicators of two wheeled vehicles.</i></p>	<p><i>AIS-126/2014, as amended from time to time.</i></p>	<p><i>For new models: 1st October, 2016 For existing models: 1st October, 2017”;</i></p>

(iii) for serial number 21(ii) and the entries relating thereto, the following shall be substituted, namely:-

(1)	(2)	(3)	(4)
"21(ii).	<i>Electromagnetic compatibility of motor vehicles manufactured on and from dates mentioned incolumn (4).</i>	<i>AIS-004 (Part 3)-2009, as amended from time to time.</i>	<i>L category vehicles (including electric power train vehicles) : For new models: 1st October, 2013 For existing models: 1stOctober,2015 Motor vehicles of M and N category complying with Mass Emission standards for Bharat Stage IV, including electric power train vehicles: 1st October, 2015"</i>

(iv) for serial numbers 26, 27, 28, 29 and the entries relating thereto, the following shall be substituted, namely:-

(1)	(2)	(3)	(4)
"26.	<i>Electric Power Train Vehicles - Construction and Functional Safety Requirements</i>	<i>AIS-038 (Rev.1) / 2015, as amended from time to time</i>	<i>1st October, 2016.</i>
27.	<i>Electric</i>	<i>AIS-039</i>	<i>1st</i>

	<i>Power Train Vehicles Measurement of Electrical Energy Consumption</i>	<i>(Rev.1) /2015, as amended from time to time</i>	<i>October, 2016.</i>
28.	<i>Electric Power Train Vehicles - Method of Measuring the Range</i>	<i>AIS-040 (Rev.1) / 2015, as amended from time to time</i>	<i>1st October, 2016</i>
29.	<i>Electric Power Train Vehicles - Measurement of Net Power and Maximum 30 Minute Power</i>	<i>AIS-041 (Rev.1) / 2015, as amended from time to time.</i>	<i>1st October, 2016.”;</i>

(v) for serial number 33 and entries relating thereto, the following shall be substituted, namely:-

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>“33.</i>	<i>The spray suppression devices for automotive vehicles.</i>	<i>AIS-013 (Rev.1)/2014, as amended from time to time, for vehicles specified therein.</i>	<i>For new models: 1st October, 2016 For existing models: 1st October, 2017”;</i>

(vi) for serial number 40 and the entries relating thereto, the following shall be substituted, namely:

(1)	(2)	(3)	(4)
"40.	<i>The interior noise level requirements for the vehicles - for transport vehicles of M2, M3, N2 and N3 category</i>	<i>IS 12832:2010, as amended from time to time</i>	<i>1st October, 2016.”;</i>

(vii) for serial number 41 and the entries relating thereto, the following shall be substituted, namely:

(1)	(2)	(3)	(4)
"41.	<i>Requirement for bumpers fitted on M1 category of vehicles</i>	<i>IS 15901:2010, as amended from time to time</i>	<i>1st October, 2016.”;</i>

(viii) after serial number 49 and entries relating thereto, the following shall be inserted, namely:

(1)	(2)	(3)	(4)
"50.	<i>Test procedure for measurement of minimum ground clearance for M1 category of</i>	<i>IS 9435: 2004, as amended from time to time</i>	<i>1st October, 2016.</i>

	<i>vehicles</i>		
51.	<i>Protective devices against unauthorised use for M and N category vehicles</i>	<i>AIS-075/2006, as amended from time to time</i>	<i>1stApril, 2017.</i>
52	<i>Vehicle Alarm Systems and Immobilizers for M1 category, and N1 category (having GVW not more than 2 ton)</i>	<i>AIS-076/2007, as amended from time to time</i>	<i>1stApril, 2017. ”.</i>
	<i>Note: If other categories of vehicles are fitted with such devices, the vehicles shall comply with the requirements of AIS-076/2007, as amended from time to time.</i>		

ABHAY DAMLE, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 1365(E), dated the 13th December, 2004 and last amended vide notification number S.O. 2412(E), dated the 3rd September, 2015.”

5. The contention of the Union of India is that all manufacturers are adhering with the aforesaid notifications, and, thereafter, clarificatory circular has also been issued on 07.12.2017, and the same is reproduced as under:

“No. RT-11021/38/2017-MVL

The 7th December, 2017

To

The Principal Secretaries (Transport)/The Secretaries (Transport)/

The Transport Commissioners of all the States/UT Administrations.

Subject: Action against unauthorised fitment of Crash Guard / Bull Bar on the Motor Vehicles.

Madam/Sir,

Kind attention is drawn to the unauthorised fitment of crash guards/ bull bars on the Motor Vehicles. The fitment of crash guard / bull bar on the vehicles pose serious safety concerns to the pedestrians as well as occupants of the vehicle. It is brought to your notice that the fitment of crash guards / bull bar is in contravention of Section 52 of the Motor Vehicles Act, 1988 and attracts penalty under Section 190 and Section 191 of the Motor Vehicles Act, 1988.

2. It is therefore requested that States may take strict action against the unauthorised fitment of Crash Guard/ Bull bar on the Motor Vehicles.

Yours faithfully

-sd-

(Priyanka Bharti)

Director (MVL)

[Tel:23314316](tel:23314316)
[e-mail:dirmvl-morth@gov.in](mailto:dirmvl-morth@gov.in)

6. Learned Counsel for Union of India has further argued before this Court that Section 52 of the MV Act does not permit alteration in motor vehicles, and there is no provision for fitment of Crash Guards or Bull Bars under the MV Act or under the Central Motor Vehicles Rules, 1989. It has been stated that they have been taking action against unauthorized fitment of Crash Guards and Bull Bars.

7. This Court has carefully gone through the Writ Petition as well as the reply filed by the Respondents and the same reveal that the Section 52 deals with alteration in vehicle and any contravention to Section 52 attracts penalty under Section 190 of the MV Act. The said Section 190 of the MV Act reads as under:

“190. Using vehicle in unsafe condition.—

(1) Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine [of one thousand five hundred rupees], or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with imprisonment for a term which may extend to three months, or with fine [of five thousand rupees], or with both [and for a subsequent offence shall be punishable with imprisonment for a term which may extend to six months, or with a fine of ten thousand rupees for bodily injury or damage to property].

(2) Any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with

[imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months] and for any second or subsequent offence with [imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both].

(3) Any person who drives or causes or allows to be driven, in any public place a motor vehicle which violates the provisions of this Act or the rules made thereunder relating to the carriage of goods which are of dangerous or hazardous nature to human life, shall be punishable for the first offence [with a fine of ten thousand rupees and he shall be disqualified for holding licence for a period of three months], or with imprisonment for a term which may extend to one year, or with both, and for any second or subsequent offence with fine [of twenty thousand rupees], or with imprisonment for a term which may extend to three years, or with both.”

8. In the considered opinion of this Court, there is already a mechanism in place for taking appropriate action against those persons who are violating Section 52 of the MV Act, and the same has been clarified by the Government of India by filing the reply.

9. The Government of India has in fact issued a clarification and has brought to the notice of all Principle Secretaries (Transport) and Transport Commissions of all States/ Union Territories to take action against the violators of Section 52 of the MV Act in respect of the subject matter of the present PIL.

10. In light of the aforesaid, as the statutory provisions are already in place, the Respondent Union of India shall ensure strict compliance of the statutory provisions in respect of the violators in accordance with law.

11. With the aforesaid, the present PIL stands disposed of.

W.P.(C) 1498/2018 and C.M. Nos. 6143/2018 & 40306/2019

12. In light of the order passed by this Court in the aforesaid PIL i.e. W.P.(C) No. 6340/2017, no further orders are required to be passed in this Writ Petition also, and the same also stands disposed of.

SATISH CHANDRA SHARMA, CJ

TUSHAR RAO GEDELA, J

MAY 3, 2023

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