

IN THE HIGH COURT OF KARNATAKA, AT BANGALORE
(ORIGINAL JURISDICTION)

W.P. No. _____ **/2020 (GM-RES-PIL)**

BETWEEN

Sri. Prasad K.R. Rao

.... Petitioner

AND

1. The Union of India
Represented by its secretary to Government
Ministry of Road Transport & Highway,
Transport Bhawan,
No.1, Parliamentary Street
New Delhi - 110 001
2. The State of Karnataka
Represented by its principal secretary
Department of Transport
MS Building
Bangalore- 560 010.
3. The Automotive Research Association of India
Represented by its President
Having its office at Sy No. 102,
Vetal Hill, Off Paud Road,
Kothrud
Pune- 411 038.
4. The Department of Transport and Road Safety
Represented by its Commissioner
Office at 1st Floor, 'A' Block
TTMC Building
Shanthy Nagar
Bangalore- 560 027.
5. M/s Ampere Vehicles Pvt. Ltd
Represented by its Managing Director
Having its office at Survey No.19/3, 4th Floor,
Bikasipura Main Road,
JC Industrial Layout, Off Kanakapura Road,
Yelachanahalli,
Bengaluru - 560 062
6. M/s Pure Energy Pvt Ltd.
Represented by its Managing Director
Having office at Room no 605
i-TIC Foundation IIT Hyderabad

Academic Block-C
IIT Hyderabad Permanent Campus
NH9, Kandi, Sangareddy,
Telangana- 502 285

7. M/s Super Eco Automotive Co. LLP
Represented by its Partners
Having office at Plot Noo.1, Sector A,
Maharajpura Industrial Area,
Gwalior
Madhya Pradesh- 474 005

8. Okinawa Autotech Pvt Ltd
Represented by its Managing Director
Having its office at Unit No.651-654
6th Floor, JMD Megapolis, Sector 48,
Sohna Road, Gurgaon
Haryana- 122 018.

9. Tunwal E Vehicle India Pvt Ltd
Represented by its Managing Director
Having its office at E-83/91,
Electronic GIDC, Sector 26
Gandhinagar,
Gujarat 382026

.... Respondents

...

**MEMORANDUM OF WRIT PETITION UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA**

The Petitioner herein respectfully submits as follows:

1. (a) It is submitted that the petitioner is appearing in party in person in the above case. Hence for the purpose of issuing court summons, process and notices may kindly be issued to the address of the petitioner as mentioned in the cause title.

(b) It is submitted that the address of the respondent for the aforesaid purpose is as mentioned in the cause title.

2. It is submitted that the petitioner has filed the above writ petition in the nature of public interest litigation to protect the interest of the public at large and that the petitioner has no private interest in this petition.

FACTS OF THE CASE

3. It is submitted that the Respondent No.3 is an organisation affiliated to the Respondent No.1 and certifying agency recognized under the provisions of the Central Motor Vehicles Rules, 1989 (hereinafter referred to as the "Rules") for the purpose of testing the vehicles and providing certificates to the electric vehicles thereby declaring such certified electric vehicles comes within the definition of Rule 2(u) of the Rules and hence such certified electric vehicles are exempted as motor vehicles under the provisions of The Motor Vehicles Act, 1988 (hereinafter referred to as the "Act").

4. It is submitted that the Respondent No.5 to 9 are the companies engaged in manufacturing/importing the electric vehicles under various series and are sold throughout the country by their distributors/agencies. It is further submitted that some of the variants of these electric vehicles are registered under the provisions of the Act and some of the electric vehicles are exempted under the provisions of the Act based on the certificates issued by the Respondent No.3/Association.

5. It is submitted that the Respondent No.5 is engaged in manufacturing and selling electric scooters all over the country through its authorized dealers under various heads namely Reo, Reo Elite, Magnus, V48 and Zeal. Copy of the Brochure issued by the Distributor of the Respondent No.5/company is herewith produced as **ANNEXURE- 'A'**. It is further submitted that apart from the electric vehicle named as ZEAL all the other 4 categories of electric vehicles i.e., Reo, Reo Elite, Magnus and V48 travel at the speed of 35km/hr thereby violating the mandatory conditions

unprescribed under Rule 2(u) of the rules, the said vehicles are un-registered based on the certificate issued by the Respondent No.3/Association. Copy of the photographs of the electric vehicle named Reo, Magnus and V48 are herewith produced as ANNEXURE 'B', ANNEXURE 'C' & ANNEXURE 'D' respectively.

6. It is submitted that similarly Respondent No.6/Company is also engaged in manufacturing and selling electric scooters all over the country under various heads namely e-TRON, e-GNITE, e-TRANCE and e-PLUTO. It is further submitted that e-TRON and e-GNITE are the pedal assisted electric vehicles and e-TRANCE and e-PLUTO are the general electric vehicles and all these electric vehicles travels at the speed of 30 to 40 km/hr thereby violating the essential conditions prescribed under Rule 2(u) of the rules, the said vehicles are un-registered based on the certificate issued by the Respondent No.3/Association. Copy of the photographs of the un-registered electric vehicle named e-TRANCE & e-PLUTO vehicles are herewith produced as ANNEXURE 'E' & ANNEXURE 'F' respectively. It is further submitted that the authorized dealer of the Respondent No.6/company issued a price list of all the electric vehicles aforementioned stating the information about the top speed, its specifications and whether the vehicles requires registration, driving license, insurance and helmet to drive the vehicle. Copy of the Price List issued by the authorized dealer of the Respondent No.6/Company is herewith produced as ANNEXURE 'G'.

7. It is submitted that similarly Respondent No.7/Company is also engaged in selling electric scooters all over the country under

various heads namely T1, SE2 and S2 series. It is further submitted that S2 is registered electric motor vehicle under the provisions of the motor vehicles act since it travels at the speed of 60 km/Hr but the electric vehicles namely T1 and SE2 series travels at the speed of 45Km/Hr to 50 Km/Hr, thereby violating the mandatory conditions prescribed under Rule 2(u) of the rules and these electric vehicles are unregistered since the Respondent No.3/Association has certified that these vehicles shall not come within the purview of the Motor Vehicles Act and they are exempted under the provisions of The Motor Vehicles Act. It is further submitted that the authorized dealer of the Respondent No.7/company also issued a price list of all the electric vehicles aforementioned stating the information about the top speed, specifications, whether the vehicles requires registration. Copy of the Price List issued by the authorized dealer of the Respondent No.7/Company is herewith produced as ANNEXURE 'H'.

8. It is submitted that similarly Respondent No.8/Company is also engaged in manufacturing and selling electric scooters all over the country through its authorized dealers under various heads namely RAISE, LITE, RIDGE, RIDGE+, PRAISE, PRAISE PRO and PRAISE+ series. It is further submitted that all the vehicles sold by the Respondent No.8/company are registered under the provisions of The Motor Vehicles Act, whereas the electric vehicle namely RAISE and LITE series are not registered under the act since the Respondent No.3/association has issued a certificate stating that these two series are exempted under the provisions of motor vehicles act but the electric vehicle namely RAISE and LITE series travel at the speed of 40-45 km/hr thereby violating the mandatory

conditions prescribed under Rule 2(u) of the rules. Copy of the photographs of the electric vehicle named RAISE and LITE are herewith produced as ANNEXURE 'J' & ANNEXURE 'K' respectively. It is further submitted that the authorized dealer of the Respondent No.8/company also issued a price list of all the electric vehicles aforementioned stating the information about the top speed, specifications, whether the vehicles requires registration or not. Copy of the Price List issued by the authorized dealer of the Respondent No.8/Company is herewith produced as ANNEXURE 'L'.

9. It is submitted that the Respondent No.9 is also engaged in manufacturing and selling electric scooters all over the country through its authorized dealers under various heads namely STORM ZX, Sport 63-48V, SPORT 63-60V, ELEKTRIKA 60, LITHINO- Li 2.0, Mini LITHINO- 48v and Sports 63 Alpha 48V. Copy of the broucher issued by the authorized dealer of Respondent No.9/company is herewith produced as ANNEXURE 'M'. It is further submitted that all the aforementioned electric scooters sold by the Respondent No.9 are the un-registered vehicles based on the certificate issued by the Respondent No.3/association certifying that the electric scooters travels within the speed of 25km/hr but it was found that all these vehicles manufactured and sold by the Respondent No.9 travels at the speed of 40 to 50 km/hr thereby violating the mandatory conditions prescribed under Rule 2(u) of the rules. Copy of the photographs are herewith produced as ANNEXURE 'N', ANNEXURE 'P', ANNEXURE 'Q' & ANNEXURE 'R' respectively.

10. It is submitted that such being the case, on 16.01.2020 the Petitioner issued a legal notice to the Respondent No.3/association stating that the exemption certificates issued to electric vehicles manufactured by Respondent No.5 to 9 are in violation of the provisions of the rules and hence requesting the Respondent No.3 to issue certificates to the electric vehicles only after fulfilling the essential ingredients mandated under Rule 2(u) of the central motor vehicles rules but the Respondent No.3 issued a reply notice dated 31.01.2020 denying all the contentions raised by the petitioner. Copy of the legal notice dated 16.01.2020 issued to the Respondent No.3/association is herewith produced as **ANNEXURE 'S'** and Copy of the reply notice dated 31.01.2020 issued by the Respondent No.3 is herewith produced as **ANNEXURE 'T'**. It is further submitted that the Petitioner also issued legal notice to the Respondent No.5 to 9 requesting them to manufacture the electric scooters in accordance with the rules framed by the Respondent No.1 and thereafter to obtain exemption certificate from Respondent No.3 but neither the Respondent No.5 to 9 complied with the same nor issued reply notice.

11. It is submitted that the petitioner has obtained the videography footages of the electric vehicles showing that the electric vehicles of the Respondent No.5 to 9/companies travels beyond the speed limit prescribed under the law and the same shall be submitted before this Hon'ble Court with the leave of this Hon'ble Court.

12. It is submitted that apart from the aforementioned respondents there various other companies like Hero Electric Pvt

Ltd, Avan Motors, Go Green etc., indulged in manufacturing and selling electric vehicles and the Respondent No.3 without following the due process under the law has negligently issued certificate of exemptions under the rules thereby causing wrongful loss to the state exchequer and wrongful gain to themselves.

13. It is submitted that the petitioner being aggrieved by the acts and actions of the Respondent No.3 and Respondent No.5 to 9 having no other alternative and efficacious remedy has approached this Hon'ble Court by preferring this writ petition on following among grounds.

14. It is submitted that the petitioner has not filed any other petition before this Hon'ble Court or any other court having competent jurisdiction and no other proceedings are pending before this Hon'ble Court in respect of the same subject matter.

GROUNDS

15. It is submitted that the Respondent No.3 without due diligence and without fulfilling the conditions prescribed under Rule 2(u) of the Central Motor Vehicles Rules 1969 has issued certificate of exemption thereby violating the rules itself.

16. It is submitted that Rule 2(u) of the central motor vehicles rules, 1969 states as follows:

Rule 2: Definitions. - In these rules, unless the context otherwise requires-

(u) "Battery Operated Vehicle" means a vehicle adapted for use upon roads and powered exclusively by an

electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle;

Provided that a two wheeler battery operated vehicle shall not be deemed to be a motor vehicle if all the following conditions are verified and authorised by any testing agency specified in rule 126, namely-

- (a) Vehicle equipped with a electric motor having thirty minute power less than 0.25 Kw;*
- (b) maximum speed of the vehicle is less than 25 km/h;*
- (c) Vehicle is fitted with suitable brakes and retro reflective devices i.e., one white reflector in the front and one red reflector at the rare*
- (d) Unladen weight (excluding battery weight) of the vehicle is not more than 60Kg*
- (e) In case of pedal assisted vehicle equipped with auxiliary electrical motor, in addition to above the thirty minute power of the motor is less than 0.25Kw whose output is progressively reduced and finally cut off as the vehicle reaches at the speed of 25Km/hr, or sooner if the cyclist stops pedalling.*

It is submitted that on the bare perusal of the aforesaid rule it is crystal clear that Clause (b) of Rule 2(u) mandates that the speed of the electric vehicle should be less than 25Km/hr in order to be exempted under the provisions of the Motor Vehicles Act but the electric vehicles manufactured and sold by the Respondent No.5 to 9 exceeds the speed limit and the Respondent No.3 without following the mandatory conditions under Rule 2(u) has issued

certificate thereby exempting the registration of the electric vehicles under the Act.

17. It is submitted that though all these un-registered electric vehicles are equipped with 0.25kw or 250w capacity electric motor the electric vehicles are installed with 3 modes of speed which indicates that in the first mode the vehicle travels upto the speed of 25kms, on the second mode it travels upto 35 kms and in third mode it travels upto the speed of 45kms/hr thereby violating the rules and evading the registration charges imposed by the government and fraudulently selling the same to the general public.

18. It is submitted that the Respondent No.3/association has issued certificate of exemption to the electric scooters manufactured and sold by the Respondent No.5 to 9 thereby evading the registration charges to the Respondent No.2 thereby committing wrongful loss to the Respondent No.2 and wrongful gain to themselves hence committing fraud to the Respondent No.2 as well as to the general public.

19. It is submitted that the Respondent No.5 to 9 has also advertised in their website as well as in their brochure canvassing that the top speed of all the un-registered electric vehicle are below 25km/hr but when the aforesaid electric vehicles were actually driven it was found that all the electric vehicles travels beyond the prescribed speed limit thereby committing fraud to the general public.

20. Any other grounds not specifically raised herein shall be raised at the time of hearing with leave of this Hon'ble Court.

21. Thus viewed from any angle the acts and actions of the Respondent No.3 and Respondent No.5 to 9 have violated the principles established under the law. Hence this writ petition.

PRAYER

Wherefore it is most humbly prayed that this Hon'ble Court may be pleased to:

- (a) Issue writ, order or directions in the nature of mandamus directing the Respondent No.3 to cancel/withdraw all the certificates of exemption issued to the un-registered electric scooters manufactured and sold by the Respondent No.5 to 9 and other companies violating Rule 2 (u) of the Central Motor Vehicles Rules, 1989.
- (b) Issue writ, order or directions in the nature of mandamus directing the Respondent No.4 to issue circular to the general public to register the electric vehicles under The Motor Vehicles Act which are in violation of Rule 2 (u) of the Central Motor Vehicles Rules, 1989.
- (c) Issue any other writ, order or directions which deems fit in the circumstances of the case in the interest of justice and equity.

Bangalore
22.06.2020

PRASAD K.R. RAO
PARTY IN PERSON

ADDRESS FOR SERVICE

Sri. Prasad K.R. Rao