

Court No. - 3

Case :- WRIT - A No. - 69 of 2024

Petitioner :- Shree Vindavan Auto Sales

Respondent :- State of U.P.

Counsel for Petitioner :- Nirvikalp Pandey,Prarabdha Pandey

Counsel for Respondent :- C.S.C.

Connected with

Case :- WRIT - A No. - 851 of 2024

Petitioner :- Maya Autotech

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Kumar Sreshtha

Counsel for Respondent :- C.S.C.

and

Case :- WRIT - A No. - 4971 of 2024

Petitioner :- Shri Hari Enterprises Through Its Proprietor Chandrabhan Singh
And Another

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Dinesh Singh Yadav,Rohit Nandan Pandey

Counsel for Respondent :- C.S.C.

and

Case :- WRIT - A No. - 2729 of 2024

Petitioner :- Piaggio Vehicles Pvt Ltd

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Rahul Chaudhary

Counsel for Respondent :- C.S.C.

Case :- WRIT - A No. - 1871 of 2024

Petitioner :- Maya Autotech

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Jigar Khare,Kumar Sreshtha

Counsel for Respondent :- C.S.C.

and

Case :- WRIT - A No. - 2723 of 2024

Petitioner :- Piaggio Vehicles Pvt Ltd

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Rahul Chaudhary

Counsel for Respondent :- C.S.C.

and

Case :- WRIT - A No. - 881 of 2024

Petitioner :- Agra E- Vahan Vyapar Association Through Its Vice President Sung Priya Gautam Having Its Office At 3 Ajeet Nagar

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Nirvikalp Pandey, Prarabdha Pandey

Hon'ble Anjani Kumar Mishra, J.

Hon'ble Jayant Banerji, J.

(Per Hon'ble Anjani Kumar Mishra, J.)

1. Heard counsel appearing for the various petitioners in these bunch of writ petitions and learned Standing Counsel.
2. Under challenge in some of these petitions is the Notification No.361/Sa Pra Sha/2023/Mathura dated 07.11.2023 issued by the Assistant Regional Transport Officer (Administration/Registering Authority), Mathura.
3. In the petitions pertaining to District Agra, under challenge, is the Office Order No. 3961/Sa Pra/Ka Aa/e-Rickshaw/e-Auto/2024 dated 08.01.2024 passed by the Assistant Regional Transport Officer (Administration/Registering Authority), Agra.
4. By these orders, registration of e-Rickshaw and e-Auto has been banned in Mathura and Agra, respectively, in purported exercise of powers under Rule 178 of the U.P. Motor Vehicle Rules, 1998.
5. Although, this order states that this restriction is being imposed on account of mushrooming number of e-Rickshaw both in Agra and Mathura leading to incessant traffic jams. The petitioner, Agra e-Vahan Vyapar in Writ Petition No.881 of 2024 is a registered Associations of e-Vehicles Dealers in Agra. All other petitioners are dealers in e-Rickshaw and e-Auto Rickshaw.
6. The primary contention of the petitioners is that the Motor Vehicle Act or the Rules framed thereunder be it the State Act or the Central Act, do not empower the registering authorities to put a

blanket ban on the registration of new e-Rickshaw etc which is, in any case, violative of Article 19(1)(g) of the Constitution.

7. As already stated above and as has been reiterated by learned Standing Counsel, the orders have been passed in the purported exercise of powers under Rule 178 of the U.P. Motor Vehicle Rules, 1998. The said rule reads as follows:-

“178. Restrictions on the use and the speed of motor vehicles.—A Superintendent of Police within a Municipal Corporation, Municipality or Nagar Panchayat and a Registering Authority in other areas within their respective jurisdiction may make such orders as they think fit restricting the speed of or restricting or prohibiting the use of motor vehicles, generally or any particular class or classes of motor vehicles in any area or on any road. Such orders shall be published by notification in the official Gazette and also by means of notice boards at or near the place of road to which they apply.”

8. Counter affidavit has been filed on behalf of the respondents only in Writ Petition No.69 of 2024 and has been sworn by the fifth respondent, the Assistant Regional Transport Officer (Administration/ Registering Authority), Mathura.

9. The crux of the affidavit is that the traffic jams are occurring in Mathura city on account of excess number of e-Rickshaws operating there and the operator are, in fact, flouting the traffic rules. It is also averred that 14748 E-Rickshaws, 12346 Three-wheeler CNG Auto-Rickshaws and 695 total e-autos are operating and that more than 105 E-Rickshaw Dealerships are operating in Mathura. It is also alleged that the E-Rickshaw drivers do not follow the traffic rules. They often move arbitrarily on routes other than the prescribed routes. E-Rickshaws are also alleged to be over loaded besides being used as goods carriers.

10. Certain paragraphs of the counter affidavit which cull out the case of the respondents (with crucial aspects underlined by us) are quoted below:

“11. That, the contents of Paragraphs No. 12, 13 and 14 of the writ petition are not admitted as stated and hence denied in vehemence in reply thereto it is respectfully submitted that in Mathura City, a total of 14748 e-rickshaws, 12346 three-wheeler CNG auto-rickshaws and 695 total e-autos are operating, along with more than 105 e-rickshaw dealerships are also operational. At present, more than 26000 CNG auto-rickshaws, e-rickshaws and e-autos are registered and operating in Mathura city, apart from this, the number of personal two-wheelers and four-wheelers in Mathura city is 532794. It is clear from the above that the vehicle density in Mathura city is quite high. It is noteworthy that CNG three-wheeler auto rickshaws are covered by permits, hence it is easy to regulate them through permits. Since permits are not being provided to new CNG autos in Mathura City, hence their number is controlled in Mathura City. While e-rickshaws do not require a permit, hence controlling them after registration is a big problem. If they are banned in any area, they disrupt urban traffic by creating Gherao, road jams and strikes. Therefore, in view of the density of Mathura city, it is necessary in the public interest to ban the registration of e-rickshaws.

12. That, the contents of Paragraph No. 15 of the writ petition are not admitted as stated and hence denied in vehemence in reply thereto it is respectfully submitted that a detailed action plan for E-Rickshaw management in Mathura Vrindavan Dham has been prepared by the Senior Superintendent of Police, Mathura. However, the E-Rickshaw drivers are not following the decision taken at the level of the Senior Superintendent of Police for the management of E-Rickshaws. The E-Rickshaw drivers often surround the enforcement personnel who are enforcing the decision, and to hinder their proceedings and put pressure on them, the E-Rickshaw drivers protested by way of Chakka Jam and Dharna-Pradaeshan and they also blocked the road, due to which the general public and the devotees coming from India and abroad have to face inconvenience as well as negative messages going to spread among them.

13. That, the contents of Paragraphs No. 16 & 17 of the writ petition are not admitted as stated and hence denied in vehemence in reply thereto it is respectfully submitted that the Tempo, Auto, Car, Jeep, Mini Bus etc. Commercial Vehicles are covered under the Permit Conditions hence these are easily regulated through permits. Whereas rickshaws are not covered by permit conditions and hence are difficult to regulate. E-rickshaw drivers often do not follow traffic rules, they often move arbitrarily on routes other than the prescribed route, they do not move in one lane and take turns from anywhere, they park their vehicles

anywhere and they also stop their vehicles suddenly in the middle of the road to pick up and drop passengers.

The E-Rickshaw drivers often surround the enforcement personnel who are enforcing the decision, and to hinder their proceedings and put pressure on them, the E-Rickshaw drivers protested by way of Chakka Jam and Dharna-Pradaeshan and they also blocked the road, due to which one hand, the general public has to face a lot of inconveniences, on the other hand, the devotees coming from India and abroad also have to face inconvenience and it also sends a negative and wrong message among them. Hence it is required in the above circumstances that a ban be imposed on the new E-Rickshaws in the district and for this purpose, the Senior Superintendent of Police Mathura vide notification dated 06.11.2023 and the Registering Authority/Assistant Regional Transport Officer (Administration) vide notification dated 07.11.2023 imposed the ban for registration of new E-Rickshaws in the district.

11. In essence it is the version in the counter affidavit that the ban has been imposed in public interest and for the full flow of traffic both in Mathura and Agra. The same has been vehemently emphasized by learned Standing Counsel.

12. In the several paragraphs, it has been emphasized that the ban on registration of new e-rickshaw etc. has been imposed in exercise of powers conferred by Rule 178 of the U.P. Motor Vehicle Rules, 1998.

13. In the context of the submissions made, we have carefully examined Rule 178 relied upon by the respondents.

14. Its perusal reveals that the restrictions contemplated by Rule 178 are with regard to the speed or with regard to restricting or prohibiting use of motor vehicles, generally or any particular class or classes in any area or any road. This provision does not contemplate or empowers the respondents to ban registration of new vehicles. The impugned restriction is therefore, beyond the scope of Rule 178 and hence, unsustainable.

15. We are therefore, constrained to hold that apart from the restriction on speed and or roads and area of operation, no other restriction has the sanction of law. Therefore, the impugned orders

insofar as they ban registration of new e-rickshaws etc is without legal sanction.

16. Although, it is sought to be contended that restrictions of registration of new motor vehicles is in public interest and to regulate the flow of traffic, and various issues in this regard have been highlighted in the paragraphs of the counter affidavit quoted herein above, the same does not improve the case of the respondents. In case the situation is getting out of hand, nothing prevents the legislature or the rule making authority from bringing about suitable enactments/amendments in the existing statute or the rules framed therein to achieve the desired objectives which is also the mandate of Article 19(2) of the Constitution. However, the situation howsoever bad, cannot empower the authorities to exercise power or jurisdiction which they do not possess under the existing law or the rules.

17. The respondents without any authority have passed the impugned order(s). In its counter affidavit the concerned respondent has stated reasons which indicated failure on its part and on part of the administration to manage and control traffic and certain consequential law and order situations arising therefrom.

18. It has also cited lacunae and omissions in legislation that is hampering regulation of the e-rickshaws and check on their drivers.

19. Such averments, allegations apprehensions and expression of incapacities cannot form the basis of arbitrary and illegal actions of issuance of the impugned notification and office order, which are also beyond jurisdiction.

20. For the foregoing reasons all these petitions are hereby allowed and the impugned Notification No.361/Sa Pra Sha/2023/Mathura dated 07.11.2023 passed by the Assistant Regional Transport Officer (Administration/Registering Authority), Mathura and the Office Order No. 3961/Sa Pra/Ka Aa/e-Rickshaw/e-Auto/2024 dated 08.01.2024

passed by the Assistant Regional Transport Officer
(Administration/Registering Authority), Agra, are herein quashed.

Order Date :- 19.4.2024

Mayank