

Shephali/Arun

REPORTABLE

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15991 OF 2022

WITH

INTERIM APPLICATION NO. 570 OF 2023

AND

INTERIM APPLICATION NO. 568 OF 2023

1. **ROPPEN TRANSPORTATION SERVICES PVT LTD,**
a company incorporated under the Companies Act 2013, having its branch office at: Office No. 7, 3rd Floor, Suyash Plaza, Bhosale Housing, Bhyandarkar Road, Shivajinagar, Pune 411 004, and Registered office at 3rd Floor, Sai Prithvi Arcade, Megha Hills, Sri Rama Colony, Madhapur, Hyderabad, Telangana 500 081.
2. **SHANTANU SHARMA,**
Age 34 years, Salarpuria Softzone, Wing C, First floor, Office 1, BloCk A, Bellandur Village, Varthur Hobli, Bangalore South Taluk, Outer Ring Road, Bangalore 560 103

... PETITIONERS

~ VERSUS ~

1. **STATE OF MAHARASHTRA,**
Transport Department, Transport

commissioner's Office, 5th Floor,
Fountain Telecom, Building-2, Fort,
Mumbai 400 001

**2. COMMISSIONER OF
TRANSPORT, MOTOR VEHICLES
DEPARTMENT,**

Transport Commissioner's Office,
MTNL building, Fountain 2 Building,
5th Floor, MG Road, Fort,
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Email: transport.commr-mh@gov.in

**3. ADDITIONAL TRANSPORT
COMMISSIONER,**

Transport Commissioner's Office,
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Email: adtc.tpt-mh@gov.in

**4. JOINT TRANSPORT
COMMISSIONER,**

Transport Commissioner's Office,
MTNL building, Fountain 2 Building,
5th Floor, MG Road, Fort,
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Email: jtcc.tpt-mh@gov.in

**5. DEPUTY TRANSPORT
COMMISSIONER,**

Transport Commissioner's Office,
MTNL building, Fountain 2 Building,
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Mumbai 100 001

Email: dytcaccts.tpt-mh@gov.in

**6. REGIONAL TRANSPORT OFFICE,
PUNE,**

Office No. 38, Dr Ambedkar Road,

Near Sangam, Pune 411 001, and
Survey No. 120/A-2, Alandi Road,
Yerwada, Pune 411 001
Email: rto.12-mh@gov.in

**7. REGIONAL TRANSPORT OFFICE,
MUMBAI WEST,**

Mumbai West Office: 111-D, Ambvali
Village, Near Manish Nagar, Andheri
(West), Mumbai 400 053.
Email: rto.02-mh@gov.in

**8. HOME DEPARTMENT
GOVERNMENT OF
MAHARASHTRA,**

Through its Chief Secretary,
mantralaya, Madam Cama Road,
Hutatma Rajguru Square, Nariman
Point, Mumbai 400 032
Email: mnister-home@gov.in

**9. THE REGIONAL TRANSPORT
AUTHORITY, PUNE,**

Through its member secretary,
The Regional Transport Officer, Pune,
Office: No. 38, Dr Ambedkar Road,
Near Sangam, Pune – 411 001 and
Survey No. 120/A-2, Alandi Road,
Yerwada, Pune 411 001
Email: rto.12-mh@gov.in

**10. THE REGIONAL TRANSPORT
AUTHORITY, MUMBAI,**

Through the Regional Transport
Officer, Mumbai West, Office: 111-D,
Ambvali Village, Near Manish Nagar,
Andheri (West), Mumbai 400 053
Email.: rto.02-mh@gov.in

... RESPONDENTS

APPEARANCES

FOR THE PETITIONERS	Mr Aspi Chinoy, Senior Advocate, <i>with Fereshte Sethna, Abhishek Tilak, Praprati Kedia, Shivani Sanghavi, Suyash Bhawe, Mohit Tiwari, Ashish Mishra & Aman Dutta, i/b DMD Associates.</i>
FOR RESPONDENT- STATE	Dr Birendra Saraf. Advocate General, with PP Kakade, GP & AA Alaspurkar, AGP.
FOR THE APPLICANT IN IA/568/2023	Ms Gayatri Singh, Senior Advocate, with Ronnita Bhattacharya & VG Sreeran.
FOR THE APPLICANT IN IA/570/2023	Mr Akshay Deshmukh, with Pratik Wakade & Aniket Pawar.
APPLICANT PRESENT IN PERSON	Mr Babaji Kambale.
APPLICANT PRESENT IN PERSON	Mr Anand Tambe.
PRESENT IN COURT	Mr JB patil, Additional Transport Commissioner.
PRESENT IN COURT	Mr Sanjeev Bhor, Deputy RTO, Pune.
PRESENT IN COURT	Smt SM Wadekar, Motor Vehicles Prosecutor.
PRESENT IN COURT	Mr Kailas Kothawade, Assistant Transport Commissioner.
PRESENT IN COURT	Mr Jayesh Chiplunkar, Assistant Motor Vehicles Prosecutor.

**CORAM : G.S.Patel &
S.G. Dige, JJ.**

DATED : 20th January 2023

ORAL JUDGMENT (Per GS Patel J):-

1. Heard.

2. The 1st Petitioner operates what is called an aggregator service under the name *Rapido*. This is similar to services offered by the other aggregators for four-wheelers, two-wheelers and three-wheelers. In this Petition, the Petitioners are concerned with the 1st Petitioner's services regarding two- and three-wheelers. Typically, the services operate like this. There is a multi-platform mobile application or App. Passengers/riders who desire to avail of the service must register on this mobile platform. Once, for a fee, they can 'book a ride'. The passenger is picked up at his or her location, wherever the passenger presently is. The destination is also provided in advance. The cost of the ride is either debited to a credit card or to an account maintained with the service provider. This is an 'aggregator' because it brings together operators of vehicles on a single platform. The aggregator need not itself own the vehicles to be used. Private vehicles are often used to offer these services. Passengers can choose from a range of options, such as different car types, prices, and providers. Taxi aggregators also offer opportunities for drivers, such as flexible working hours and the ability to earn more money during peak times, In the context of two- and three-wheelers, and we will confine ourselves to this, these are

said to be ‘third party’ motorcycle riders or vehicle operators. This is the statement in paragraph 1 at the very head of the Petition.

3. The question that arises in this Petition is whether the 9th Respondent, the Regional Transport Officer, Pune was justified in passing an order dated 22nd December 2022 rejecting the 1st Petitioner’s application to operate this two- and three-wheeler aggregator service in Pune.

4. Before we turn to the Petition itself, we note a very recent development. Yesterday, 19th January 2023, the State Government issued a Notification No. MVR-0821/C.R.95/TR-2 dealing specifically with the Motor Vehicle Aggregator Guidelines 2020 (of which more presently), and, in particular, Clause 15 of those guidelines. The effect of the Notification was to specifically prohibit the use of any *non-transport vehicles*, including two-wheelers, three-wheelers and four-wheelers, for the purposes of aggregation and ride-pooling. A copy of this Notification is handed up by Dr Saraf, learned Advocate General. So that there is no ambiguity about it, a scan of this Notification is appended at the end of this order.

5. In light of this, we asked Mr Chinoy whether he propose to amend the Petition to challenge the notification. His instructions were to state that the Petitioners would consider whether or not to challenge that notification separately. The Petitioners did not desire to amend the present Petition. He made it clear that he confine himself to the impugned order of 22nd December 2022 by the RTO, Pune. This is the basis on which we have proceeded today.

6. Mr Chinoy took us through a reasonably compact list of dates and events. We turn to those immediately, because they provide the necessary factual context. Once again, for completeness, a copy is appended.

7. The Motor Vehicles Act 1988 (“**the MVA**”) suffered an amendment in August 2019 inter alia to Section 93. The original section was concerned with the requirement of a license by an agent or canvasser. The substituted section dealt with an *agent or canvasser or aggregator* and require the obtaining of a license. Section 93 as amended says this:

“93. Agent or canvasser to obtain licence.—

(1) No person shall engage himself—

- (i) as an agent or a canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or
- (ii) as an agent in the business of collecting, forwarding or distributing goods carried by goods carriages,
- (iii) **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.

Provided further that every aggregator shall comply with the provisions of the Information Technology Act, 2000 (21 of 2000) and the rules and regulations made thereunder.

(2) The conditions referred to in sub-section (1) may include all or any of the following matters, namely:—

- (a) the period for which a licence may be granted or renewed;
- (b) the fee payable for the issue or renewal of the licence;
- (c) the deposit of security—
 - (i) of a sum not exceeding rupees fifty thousand in the case of an agent in the business of collecting, forwarding or distributing goods carried by goods carriages;
 - (ii) of a sum not exceeding rupees five thousand in the case of any other agent or canvasser, and the circumstances under which the security may be forfeited;
- (d) the provisions by the agent of insurance of goods in transit;
- (e) the authority by which and the circumstances under which the licence may be suspended or revoked;
- (f) **such other conditions as may be prescribed by the State Government.**

(3) It shall be a condition of every licence that no agent or canvasser to whom the licence is granted shall advertise in any newspaper, book, list, classified directory or other publication unless there is contained in such advertisement appearing in such newspaper, book, list, classified directory or other publication the licence number, the date of expiry of licence and the particulars of the authority which granted the licence.”

(Emphasis added)

8. Section 95 gives the State Government the power to make rules as to state carriages and ‘contract carriages’. Section 96 confers a similar rule-making power on the State Government to make rules for the purposes of that chapter. These include, inter alia, the power to make rules regarding the documents, plates and marks to be carried by transport vehicles, the manner in which they are to be carried and the languages in which any such documents are to be expressed; the construction and fittings of, and the equipment to be carried by, stage and contract carriage, whether generally or in specified areas; the determination of the number of passengers a stage or contract carriage is adapted to carry and the number which may be carried; etc.

9. Section 2(7) speaks of a ‘contract carriage’:

2(7) “contract carriage” means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum—

(a) on a time basis, whether or not with reference to any route or distance; or

(b) from one point to another,

and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes—

(i) a maxicab; and

(ii) a motor cab notwithstanding that separate fares are charged for its passengers;

10. An ‘aggregator’ under Section 2(1-A) is:

2(1-A) “aggregator” means a **digital intermediary or market place for a passenger to connect with a driver for the purpose of transportation.**”

(Emphasis added)

11. Petitioner No. 1, Roppen Transportation Services Private Limited, (“**Roppen**”) began vehicle aggregator operations in October 2020. These were launched in various parts of the country, including Maharashtra.

12. On 27th November 2020, the Union Government Ministry of Roads, Transport on Highways (“**MoRTH**”) issued the Motor Vehicle Aggregator Guidelines 2020 (“**the 2020 MoRTH Guidelines**”). These are central to Mr Chinoy’s case and we will return to these shortly.

13. On 22nd December 2020, one Savina Crasto filed PIL (L) No. 9775 of 2020 in this Court. Dr Saraf has given us a copy of the Writ Petition. It is true that there was a mention about the aggregators operating without licenses or regulations. It is also true that the PIL was directed against one particular aggregator, Uber India Technology Private Limited, arrayed as the 3rd respondent to that PIL. The complaint of the petitioner seems to have been that there was no mechanism in place to receive or deal with complaints

of users/passengers against the operators of the vehicle engaged by the aggregator. This is clear from various grounds in the Petition where Ms Crasto complained that there was no avenue for grievance redressal. Prayer (a) asks for a writ demanding that Uber India comply with statutory obligations including the conditions of an advisory for licensing compliance and liability of on demand Information Technology-based Transportation Aggregators “(taxis 4+1)”. The second prayer was a direction to the State Government to implement the 2020 MoRTH Guidelines.

14. On 3rd January 2022, the RTO, Pune wrote to the Cyber Crime Cell asking that appropriate action be taken against Roppen and other aggregators. In the meantime, the RTO, Mumbai had issued an order or notice on 2nd November 2020, and Roppen filed Writ Petition No. 421 of 2022 challenging it. Roppen sought directions to the State Government to consider its application for permission of bike taxi services. That petition came up before a Division Bench of this Court of which one of us (GS Patel J) was a member. A copy of the resultant order is at Exhibit “D” at pages 114 to 115 of the Petition. The Bench noted the statement on instructions that Roppen would make a representation to the authorities concerned. We requested the authorities to consider that representation at the earliest. We also noted the statement on behalf of Roppen that until a policy decision was taken, Roppen was willing to include a disclaimer on its app itself that such services were presently unavailable in Maharashtra. By a later order of 21st February 2022, at Roppen’s request, that Petition was allowed to be withdrawn.

15. On 11th February 2022, Roppen made detailed submissions before the Deputy Transport Commissioner of Maharashtra and indicated its willingness to comply with any additional conditions or measures that the Government stipulated.

16. On 15th February 2022, Roppen's representation was rejected inter alia on the ground that there was no scheme then for bike taxis in Maharashtra.

17. On 7th March 2022, a Division Bench of this Court passed an order in Ms Savina Crasto's PIL (L) No. 9775 of 2020. A copy of that order is annexed at pages 118 to 123 as Exhibit "F" to the Petition. As we have noted, the Crasto petition itself emanated from a complaint regarding a four-wheeler ride booked by Ms Crasto. The Government said that until its domestic rules, then proposed and said to be under consideration, were finalised, aggregators like Uber would be governed by the 2020 MoRTH guidelines in terms of the first proviso to Section 93(1). This submission was noted in paragraph 6 of the Division Bench order.

18. But what is interesting is the stand that the aggregator in question, Uber, took before the PIL Court. Uber argued that it was under no compulsion to obtain a license under Section 93(1) of the MVA since the State Government Rules were yet to be finalised. Uber said it was not required to obtain a license since, because of an earlier order of 30th June 2017, effect could not be given to Maharashtra City Taxi Rules 2017. The Division Bench repelled this argument. It noted in paragraph 8 that the statutory mandate was

that no person could operate as an aggregator without a license. It observed that it was inappropriate for the State Government to permit aggregators without necessary licenses. But the Division Bench had a peculiar situation where rules were yet to be framed although the 2020 MoRTH Guidelines were in place. The Court expressed its displeasure that the State Government had permitted Uber to operate without insisting on compliance with the statutory requisite. The Bench then noted the possible prejudice that was likely to be caused if Uber services were stopped. Therefore, rather than restrain Uber from operating Maharashtra, the Court believed it was justified in granting an opportunity to it and other unlicensed aggregators to apply for licenses under Section 93(1).

19. Paragraphs 10 and 11 of this order at pages 122 and 123 are important and they read thus:

“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 9th 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 sub-section (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 16th 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.

11. **It is made clear that if no application is made before 16th March, 2022 by any aggregator or an application for license is rejected by the Licensing Authority, such unlicensed aggregator shall not be permitted to carry on further operations in the State of Maharashtra till such time an appropriate license is obtained by him/it. This condition should also form a part of the notification to be issued in terms of this order.”**

(Emphasis added)

20. Two days later, on 9th March 2022, the State Government through its Home Department issued a notification. A copy is at Exhibit “G” from pages 124 to 127. This makes specific reference to

Ms Savina Crasto's PIL and to the direction to empower the RTOs in Maharashtra to act as a licensing authority for considering and issuing aggregator licenses. Accordingly, the Government empowered all Regional Transport Authorities in Maharashtra as the competent authority (and resultantly the State Transport Appellate Tribunal as the Appellate Authority) for purposes of issuing a license to an Aggregator under Section 93(1). Aggregators were to apply before 16th March 2022. The notification said that if there was no application or if the application was rejected, the Aggregator would not be permitted to carry on operations in Maharashtra until the appropriate license was obtained. Roppen not only filed its application but recommenced its operations.

21. On 29th March 2022, the RTO, Pune wrote to Roppen saying that its application of 16th March 2022 was not in a proper form. That authority called upon Roppen to furnish particulars by 29th March 2022. Roppen did so. On 21st April 2022, Uber India's SLP against the Division Bench order of 7th March 2022 in Savina Crasto's PIL came up before the Supreme Court. The Supreme Court issued notice. The order was that status-quo as it existed that day would be maintained until further orders.

22. This order of status-quo has been the subject matter of some controversy although we note that Mr Chinoy today is clear that he bases no part of his submissions for final relief in terms of prayer clauses (a) and (b) on the Supreme Court's status-quo order, notwithstanding that the prayer for interim relief is specifically predicated on this status quo order. Again, Dr Saraf has given us a

copy of the SLP itself. The fundamental point taken in the Questions of Law and in the Grounds urged in the Special Leave Petition seems to have been that the Division Bench could not have made the 2020 MoRTH Guidelines applicable, and that in doing so it was impermissibly legislating.

23. As we shall presently see, this creates a somewhat peculiar disconnect in this particular matter.

24. The State Government was issuing 30-day provisional licenses to various Aggregators. They were all issued on 31st March 2020 for a period of 30 days, and all have expired since. Yet, Mr Chinoy says, these operators are all continuing to offer their aggregator services.

25. On 20th October 2022, the RTO, Pune told Roppen that its application of 16th March 2022 was rejected by an order of 1st April 2022 because its operations were allegedly illegal and were supposedly leading to a law and order situation with autorickshaw Unions threatening strikes and so on.

26. On 15th November 2022, the RTO (West), Mumbai wrote to Roppen saying that the Regional Transport Authority had directed that Roppen's application be held in abeyance awaiting the Supreme Court's final order in Uber India's SLP against the Division Bench order in Savina Crasto's PIL. That application by Roppen is said to be pending. Roppen went in Appeal to the Appellate Tribunal.

27. On 25th November 2022, Roppen filed Writ Petition No. 14644 of 2022 challenging the RTO, Pune's communication of 20th October 2022. On 29th November 2022, the impugned communication was set aside and the matter was remanded. On 30th November 2022, Roppen made an application with further documents to the RTO, Pune.

28. We will pass over the subsequent requests for time and the dates of the first, second and third hearings. We come directly to the impugned order of 22nd December 2022, a copy of which is at Exhibit "A" of the Petition from page 58. By this order the RTO, Pune rejected Roppen's application for an aggregator license for two- and three-wheelers in Pune. The rejection was on diverse grounds of which Mr Chinoy emphasises two as being the principal grounds of rejection.

29. The Petitioners then filed this Writ Petition challenging the impugned order. In parallel, shortly thereafter, it also sought an intervention in Uber India's SLP.

30. Before we proceed further, we note that there are two intervention applications in this Petition. Interim Application No. 568 of 2023 is by the Rickshaw Panchayat Pune Pimpri Chinchwad. Interim Application No. 570 of 2023 is by the Maharashtra Rickshaw Panchayat and the Pune City Autorickshaw Federation and Samarth Seva Pratishthan. We are not inclined to allow these Interim Applications for intervention in the present Writ Petition. It seems to us self-evident that the concerns that are raised by these

applicants are much wider. These concerns may include Roppen today, but they are not confined to Roppen. It is open to these interventionists to adopt appropriate proceedings. We say nothing on the merits of these intervention applications and expressly leave open all contentions.

31. Mr Chinoy's submission is based on the 9th March 2022 notification issued by the 2nd Respondent, the Commissioner of Transport Motor Vehicles Department, empowering the Regional Transport Authorities in the State of Maharashtra to act as the licensing authorities for aggregators and requiring aggregators to apply for a license before 16th March 2022. His submission is that the moment such a notification was issued, whether it was pursuant to an order of a Division Bench of this Court or otherwise, the 2020 MoRTH Guidelines automatically came into play in Maharashtra. If it can be shown from these Guidelines, Mr Chinoy argues, that aggregators of two- and three-wheelers are allowed to operate, then there is no question of these operators being denied or being obstructed in operating only on the ground that their applications are pending. The 2020 MoRTH Guidelines allow non-transport vehicles to be used for transport purposes. Even that is specifically adopted by the MoRTH guidelines. If a particular application is rejected, then of course Roppen is required to challenge that rejection. But it simply cannot be that operations which are otherwise permissible and contemplated by the MoRTH guideline, and made applicable in Maharashtra, are stopped, obstructed or stalled by neither granting nor refusing/rejecting the applications for licenses. Mr Chinoy argues this most certainly cannot be done on the ground that some policy is awaited. Further, if any application is

rejected on the ground that there is no policy or no set of Rules framed by the Maharashtra Government, then that takes us back precisely to the concern of the Division Bench in the PIL. This can never be a ground for rejection and any such rejection on this ground is, therefore, in his submission vitiated and is bound to be set aside.

32. In saying this, we understand Mr Chinoy very clearly now to say that — unlike what Uber India was saying in its SLP (that the Court could not have made the 2020 MoRTH Guidelines applicable) — the position is now different that the Guidelines have been made applicable by the State Government itself. Therefore, the MoRTH guidelines cannot be simply brushed aside or ignored. They must be given full voice. In other words, where Uber India said the 2020 MoRTH Guidelines could not be made applicable, Roppen now says that they do apply. Roppen's stand seems to be diametrically opposite to the one Uber took in its SLP.

33. Three conditions must obtain, Mr Chinoy argues: (1) the 2020 MoRTH Guidelines must be in operation in the State, which they are; (2) the aggregator must have applied for a license before 16th March 2022, which Roppen has done; and (3) that application has not been rejected. If these conditions are met, then an aggregator can operate and its operations cannot be stopped. As long as its application is pending, it can operate. Its operations cannot be stopped on the basis that the application is pending awaiting some policy or rules.

34. It seems to us to come to this: *First*, Roppen does not actually need a license to be issued to it to operate. With the 2020 MoRTH Guidelines in place, the pendency of an application is enough. *Second*, the application cannot be rejected on the ground that a policy and rules have not been framed; i.e., that an aggregator license cannot be rejected nor can its operations be stopped on the ground that State Government rules and policies are not framed. This seems to us to be circular reasoning and inevitably means that in the 2020 MoRTH Guidelines have been applied in a State, no State rules or policies are necessary, no actual license is necessary for an aggregator to operate, and no application can be rejected for want of a policy or rules. So long as an application is made in time, State Government rules and policy are immaterial.

35. We turn immediately to the relevant portions of the MoRTH guidelines. We find these annexed at Exhibit “B” from page 87. Clause 15 on which the considerable emphasis is laid is at page 101. In Mr Chinoy’s submission, Clause 15 specifically allows the use of non-transport vehicles by aggregators. What does this mean? It tells us that a vehicle that is not otherwise licensed for transport of passengers may be used by an aggregator precisely for that purpose. Clause 15(1) sets out the broader policy or transportation policy objective behind this when it speaks of reduction traffic congestion and auto-mobile pollution, effective asset utilisation and so on. It is for this purpose that for aggregators and aggregators alone, private vehicles are allowed to be used essentially as motor cabs. This means that a private two-wheeler or three-wheeler can be used as a bike taxi or auto rickshaw service. Mr Chinoy also draws attention to Form III relatable to Clause 3(5) of the 2020 MoRTH Guidelines.

This form specifically contemplates aggregators of autorickshaws, e-autorickshaws, motor cabs, motor cycles or bus i.e. two- and three-wheelers.

36. It is no doubt true that the 2020 MoRTH Guidelines have provisions that demand compliance. For example Clause 7 has a list of compliances with regard to drivers. Clause 5 stipulates the conditions for the grant of license to an aggregator. Clause 4 is about aggregator eligibility. Clause 8 then speaks of vehicle compliances. There are provisions made for aggregators app and website compliances (Clause 9), safety considerations and compliances (Clause 10), regulation of fares (Clause 13), suspension (Clause 16), cancellation (Clause 17) and so on. Dr Saraf says that even within these guidelines there are requirements of stringent compliance. Clause 8(2) for example requires a valid permit. Further, he submits, Clause 15 has to be read in its entirety. We reproduce Clause 15 in full from page 101.

“15. Aggregation of non-transport vehicles by Aggregators:

(1) In furtherance of the Central and State Government’s objective of reduction in traffic congestion and auto-mobile pollution, and effective asset utilisation, non-transport vehicle pooling may be provided by Aggregator unless prohibited by the State Government. Rationale for such prohibition shall be specified in writing and accessible on the transport portal of the State Government.

(2) In addition to the compliances mentioned above in these Guidelines, as may be applicable, the following shall be complied with by the Aggregator seeking to aggregate

non-transport vehicles:

(a) A maximum of four ride-sharing intra-city trips on a calendar day and a maximum of 2 ride-sharing inter-city trips per week shall be permitted for each vehicle with the driver, integrated with the Aggregator.

(b) The vehicle integrated under this Clause 15 shall obtain an insurance of at least Rs. 5 lakhs for the ride-sharers in the vehicle, other than the owner or driver integrated with the Aggregator.”

(Emphasis added)

37. Dr Saraf says that this not a compulsion to a State Government to allow aggregator services. The clause contemplates a prohibition by the State Government. It is true that a rationale for the prohibition must be specified and must be uploaded to a website but there is no mandatory requirement for the State Government to grant an aggregator license.

38. Dr Saraf contests Mr Chinoy’s formulation of Roppen’s entitlement. He maintains that neither under the Division Bench order in the PIL nor by virtue of the status-quo Supreme Court order, nor by the bringing into effect in Maharashtra of the 2020 MoRTH Guidelines could the mere pendency of an application result in what is virtually a deemed license. The requirement is fundamentally that *there can be no aggregator without a license*.

39. What the Petitioner contends, Dr Saraf submits, is that it is the aggregator who will decide the terms and conditions; unless

there is an express rejection, the aggregator can operate wherever, whenever and on whatever terms the aggregator thinks fit.

40. To assess the rival submissions on the impugned order, we need to consider it in full. Exhibit “A” is the original order in Marathi. A translation from page 75 is, to put it mildly, less than helpful. A slightly improved version (but not by much) is handed up by Mr Chinoy today. Since this not on Affidavit, we will append a copy to this order as well.

41. The order contains an elaborate description of the High Court order in Roppen’s Writ Petition No 14644 of 2022. Then it sets out the fact of the hearings. From internal page 4, there is a description of the number of “errors” that Roppen is said not to have yet rectified. Paragraph 3 of that portion says inter alia that registration numbers of 100 two wheelers and 100 rickshaws with driver and license numbers were provided. However, the necessary documents were not attached in the compilation that ran to 189 pages. Documents for only 65 new two wheelers were attached. Some 33 new autorickshaws were introduced into the list. Even amongst the newly introduced vehicles, many documents were found to be insufficient. These documents were all taken up for verification and scrutiny and they were found to be in error. There then follows from internal page 5 to page 8 a clause-by-clause tabulation referencing the 2020 MoRTH Guidelines and demonstrating non-compliance for two-wheelers. There is a similar table from page 9 regarding supposed non-compliances in regard to the application for three-wheelers. In paragraph 5 at page 13, it is

noted that Roppen did not submit a list of two-wheelers in the transport category.

42. We reproduce paragraphs 5 to 14 from pages 13 to 15. They read thus:

“5. According to S.O. 1248 (E) dated 05/11/2004, vehicles are classified as transport vehicles (transport) and non-transport vehicles (non-transport) depending on the use of the vehicle. Accordingly, *“Motorcycle use for hire to carry one passenger on pillion and motorised cycle rickshaw for goods or passenger on hire”* there is a notification to register in the transport cadre. **Accordingly, Roppen has not submitted the list of two-wheelers in the transport category. However, the vehicles used for passenger transport through them belong to the private sector. Therefore, Section 66/192(a) of the Motor Vehicles Act 1988 is being violated.**

6. The applicant has submitted an application for a Bike Taxi and a three-wheeler taxi. However, no such bike taxi scheme has been implemented by the government or the state transport authority in the state of Maharashtra. A bike taxi licence has also not been issued. Also, as per Section 4(3) of the Motor Vehicles Rules, 1989, a driver must have a PSV badge to drive a public service vehicle.

7. There is currently no state government policy on licensing bike taxis. Also, there is no fare structure policy for bike taxis.

8. The applicant has not fulfilled some of the conditions mentioned in the above-mentioned table in the motor vehicle aggregator guidelines 2020, and the app-based passenger transport service through private two-wheelers through M/s. Roppen Transportation Services

Private Limited is currently being illegally operated without any aggregator license being issued to him.

9. During the hearing in the matter of Writ Petition No. 421/2022 dated 20/01/2022 filed in the Hon'ble High Court, Mumbai as per the direction of the Hon'ble High Court, Mumbai until the policy decision regarding the bike taxi service is taken, the plaintiff (Mr. Roppen Transportation Services Pvt Ltd) must display a disclaimer on their app saying, "SUCH SERVICES ARE PRESENTLY UNAVAILABLE IN MAHARASHTRA". However, this directive is continuously being violated by the applicants.

10. Public Interest Litigation (L) No. 9775 of 2020. **According to the order dated 07/03/2022, instructions have been issued that if the aggregators do not apply before 16/03/2022 or if the application is rejected by the authority, such unlicensed aggregators will not be allowed to continue business in the state of Maharashtra. Government of Maharashtra, Home Department. By notification dated 09/03/2022, the aggregator has made it mandatory to obtain the license for passenger transport through the app and website from the competent authority under the Central Government's Motor Vehicles Aggregator Guidelines 2020.**

11. In Writ Petition No. 14644/2022 filed before the Hon'ble Bombay High Court, M/s. Roppen Transportation Services Pvt Ltd Hon'ble High Court on 29/11/2022 has ordered reconsideration of the application given for obtaining aggregator license. Accordingly, the applicant submitted an application to the Regional Transport Authority on 30/11/2022 for obtaining an aggregator license. **But the applicant has not submitted the necessary document along with the said application**

fulfilling the conditions mentioned in the aggregator policy. The applicant was asked from time to time to complete the documents by giving sufficient time during the hearing.

12. Accordingly, the hearing of the above matter by the Regional Transport Authority followed the principle of natural justice and the applicant was given sufficient opportunity to present this views. **But it has been pointed out that the applicant in the said case is only making manoeuvres to delay the hearing by filing operational documents.** The applicant has not fully complied with the provisions of the Motor Vehicles Act 1988 and the motor Vehicles Aggregator Guidelines 2020.

13. **The applicant knew the terms and conditions under the Motor Vehicle Aggregator Guidelines 2020 for obtaining the said license from the date of application dated 16/03/2022 (first application) for obtaining the said license. The applicant had stated that he had submitted the application on 29.03.2022 in the Hon'ble Court during the hearing of Petition No. 14644/2022. However, he had deposited only DD in this office dated 29.03.2022. According to the applicant, even at the time of application dated 29/03.2022, he was aware of the terms and conditions contained in the said guidelines. Therefore, the applicant was expected to file his above re-application dated 30/11/2022 only after fulfilling the terms and conditions contained in the said guidelines.** Even so, the principle of natural justice has been followed by giving sufficient opportunity to the applicant to file his arguments an documents during the hearing.

14. **The applicant has not submitted the list of two-wheelers belonging to the transport cadre.** In exercise of the powers conferred under Section 93(1) of the Motor

Vehicles Act, 1988 by the Government of Maharashtra to the Regional Transport Authorities in the State as competent authorities for issuing licenses to aggregates and to The State Transport Appellate Tribunal under Section 93(1) has been authorized as the Appellate Authority. According to Section 89, 90 of the Motor Vehicle Act, 1988 and Rule 97 of the Maharashtra Motor Vehicle Rules, 1989, the State Transport Appellate Tribunal, Mumbai can submit an appeal to the State Transport Appellate Tribunal within 30 days regarding the application rejected by the Regional Transport Authority.”

(Emphasis added)

43. The errors remained unrectified according to the 9th Respondent. The final order noted the various guideline numbers and said that there was insufficient compliance. This was separately stated for two-wheelers and three-wheelers. It is on this basis that application was rejected.

44. Mr Chinoy emphasizes paragraphs 6 and 7 regarding the lack of a bike taxi scheme and the want of State Government policy. He would have it that this is the principal and even only ground for rejection. As to the noted non-compliances, Mr Chinoy says that some of the demands are meaningless and there can never be compliance because these have been blindly applied to the Petitioner’s case. The Petitioner submits for example in a tabulation below ground ‘S’ that many of the guidelines are incapable of compliance or have been applied without thought.

45. There are some unexplained incongruities in this response in regard to guidelines 7(1), which speaks of a badge and police verification in sub-item (b) and (g). The answer from Roppen's seems to be that there are no guidelines and therefore there cannot be insistence on this. Roppen is clearly speaking of the want of the State Government guidelines for these purposes. It is difficult to see how both arguments can coexist. On the one hand, the submission is that the rejection could not have been on the ground that there were no guidelines and there was no policy. But when a non-compliance is pointed out, the answer is to say that there is an absence of a policy. We find this again in regard to guidelines 7(2)(c), 8, 9(14) and importantly even in 13(6) relating to regulation of fares. The suggestion is that since there is no fare regulation or no policy there can be no allegation of non-compliance.

46. But that surely is Dr Saraf's point to begin with. It is this inconsistency that he says can never be resolved in this fashion. Effectively, what Roppen seeks now is to determine its own fares, its own policies and the terms and conditions under which it will operate, as also to selectively decide compliances.

47. This inconsistency, Dr Saraf submits can be demonstrated with just a few examples from the tabulation below ground 'S' in the Petition itself. For example, the requirement of insurance is that there has to be a health insurance for each driver. Another requirement is that no driver with an aggregator can drive for more than 12 hours in the aggregate as a matter of safety. The response is that Roppen provides accident insurance of Rs. 5 to 10 lakhs on the

initiation of a ride. But has to be read while keeping in mind the fact that what is being aggregated, or sought to be aggregated, are non-transport vehicles for transport purposes. Vehicles designated as non-transport vehicles are covered by insurance policies that protect the vehicle and the registered owner/driver of that vehicle. Typically, these policies are said to have an exception if such a vehicle is used for transport purposes. The question is not only about coverage of the passenger but whether the existing policy that covers the vehicle is rendered void when it is used for an unlicensed transport purpose. Similarly, as regards health insurance, the response is that this would require the generation of medical reports and this cannot be done “on the spot”. It is difficult to understand what, if anything, is to be made of this. There is a requirement to ensure that drivers who may service more than one aggregator do not operate for more than 12 hours continuously. That is clearly a safety concern. The answer seems to be that since there is no data-sharing mechanism between different aggregators, compliance with this requirement is not possible. Similarly, when it comes to police verification of driver identity, the requirement is that the police must be provided with access to the aggregator’s Application Programming Interface or API. The police authority must grant a certificate of good character without a criminal record to the driver. The response is that Roppen is willing to provide access to the police. This was said in writing. Again, ‘absent any specific guidelines’ or support from the State Government further compliance is said to be not possible.

48. Dr Saraf’s submission is, therefore, that what Roppen essentially seeks is a deemed licence to continue to operate

irrespective of whether it complies with any of the conditions even of the MoRTH 2020 Guidelines. This is, in his submission, inconceivable.

49. He points out, not for the first time, that Roppen has no licence anywhere for any class of vehicle.

50. Mr Chinoy's instructions are to state that other aggregators are, in the meantime, operating without hindrance. Dr Saraf counters this by saying that those are illegal and in any case aggregation of non-transport vehicles would now fall under the 19th January 2023 notification. The Government is taking or has taken action against illegal aggregators. The fact that there is some other illegal aggregator cannot in law create any equity in favour of the Petitioner.

51. As to Mr Chinoy's submission that the impugned order at Exhibit "A" was based solely or chiefly on the lack of a policy, we find that this is a reference to paragraphs 6 and 7. But these must be read fairly and not merely by picking out certain phrases or clauses such as "no such bike taxi scheme has been implemented". In Clause 6, the RTO, Pune has indeed so noted that there is no bike taxi scheme in implementation. But he has also noted that there is a further violation on non-compliance. Again, in paragraph 7 while noting the absence of a State Government policy, the RTO has noted that there is no fair structure defined. What this means is that each aggregator is presumably left to decide for itself what it will or

will not charge and this cannot be subjected to the Government or regulatory oversight.

52. The extension of this Dr Saraf says is the likelihood of completely alarming situation. Theoretically speaking, for example, if autorickshaws are not permitted in the island city, then on the construct that Mr Chinoy commends — i.e., that an aggregator has, because of the pendency of an application an operating licence, it will have an entitlement to run a three-wheeler even in the Island City although commercial or licenced autorickshaws are prohibited there. Mr Chinoy answers this by saying that it is not Roppen's submission or suggestion that its aggregators will operate in defiance of established traffic or traffic control laws. All those must necessarily be observed. The question is of a permission to operate, not a licence to operate contrary to established rules and regulations.

53. Even if that is so, and having carefully considered rival submissions, we are unable to see how any aggregator like Roppen can lay claim to be allowed to operate firstly without a license and secondly without complete compliance with the very guidelines that the aggregator invokes. It is also not correct in our view, having seen the impugned order, to say that the rejection was solely on the basis of the want of a policy or a bike taxi scheme. Undoubtedly those were two factors, but they were by no means the only factors. The impugned order would have to be read along with the preceding paragraphs, noting and observations.

54. There is one other aspect which we believe we must very briefly turn our attention. On 13th January 2023, we passed the following order:

“1. We have heard the matter at some length. Dr Saraf has tendered some material, which we will need to consider. He also mentions that a special committee has been constituted urgently in the last day or so to examine the terms and conditions to be made applicable to a ‘bike taxi’ aggregator service, and even if such a service ought to be permitted at all. The committee needs time to consider the material and take advice.

2. Ms Sethna has a further Affidavit. It is to be filed in the Registry. We have briefly considered this Affidavit. We have also considered some of her submissions, namely, that the Petitioner is offering its two wheeler bike taxi aggregator service in a hundred cities across the country and actually has a license in at least two states and provisional license in two more. We do not know the terms of those licenses. We will require them to be produced on the next occasion. These are also to be placed in a second further Affidavit which is to be filed and served by Tuesday, 17th January 2023.

3. We list the matter first on the supplementary board on 20th January 2023. Both sides are put to notice that we will endeavour to dispose of the Petition on that date at the stage of admission.

4. The concern is about ongoing services being offered by the Petitioner in Maharashtra.

5. On instructions Ms Sethna makes a statement that all services of the Petitioner in Maharashtra will be suspended and made unavailable until the end of the day on 20th January 2023. She fairly states that the Petitioner offers, in addition to bike taxi aggregator services, delivery

services and auto rickshaws where the Petitioner does not have licenses from the State Government for any of these services as yet. However, there are pending applications for one or more of these services. There also some rejections.

6. We accept the statement made by Ms Sethna on instructions. All contentions are expressly kept open. The statement is accepted as one made on a without prejudice basis. However, having regard to the nature of the services and the fact that they are offered on a mobile phone app, we do not want any misunderstandings or complications. We will, therefore, require that the app's availability in Maharashtra has to be suspended immediately. It is not to await the transcription and uploading of this order. A representative of the Petitioner is present in Court to instruct Ms Sethna. After speaking with him Ms Sethna confirms that the app will be suspended for all services of the Petitioner in Maharashtra by 1.00 pm today. We accept the statement. We require a confirmation and will have the matter called out at 1.15 pm.

7. List the matter first on board on the supplementary board of Friday, 20th January 2023.

At 1.15 pm.

8. Ms Sethna confirms that the Petitioner's app is now inoperative for Maharashtra in compliance with the previous directions.

9. For the convenience of customers and consumers who may have already booked or engaged services before 1.00 pm today, the Petitioner may fulfil those obligations. However, it will not accept any further bookings after 1 pm today. This exception is only for the convenience of consumers."

55. Dr Saraf tells us that against this order a SLP was filed and that matter has been posted on Monday, 23rd January 2023. Mr Chinoy clarifies that the ambit of that SLP is only in regard to a Maharashtra-wide restraint even if this was on a statement made by the Petitioners. The Petitioners say they were “constrained” to make that statement. Mr Chinoy submits that his Petition and arguments today are restricted to the impugned order at Exhibit “A” of 22nd December 2022. As to other areas, cities and pending licenses, those are not the subject matter or part of the conspectus of these Petitions and consequently the Petitioners could not have been asked to make a statement for other areas at all.

56. While we note this submission, we believe it is important that some part of the factual matrix to our 13th January 2023 order be noted for what it is worth. The matter was listed at Sr. No. 903 on the supplementary board that day. We were prepared to proceed with the matter. Dr Saraf sought some time. But so did the Petitioners. It is then that we were told that Roppen was operating across the country and had licenses in just two States and a provisional license and in perhaps two more but had no license whatsoever in Maharashtra. It is at this point that we said that we would in those circumstances proceed with the hearing of the matter or, if both sides agreed on a date, until the next date operations would have to be suspended since they were clearly without a license. It is with this factual background that the statement that we have noted came to be made. The statement was in any case limited until today.

57. Mr Chinoy is right in this much. That statement obviously cannot continue beyond the disposal of the Petition. Whatever may happen in other areas, cities or jurisdictions of various other RTOs is not our concern in the present Writ Petition. If the Government takes action, no doubt Roppen will do whatever it is advised to do in that regard as it will undoubtedly do in regard to the 19th January 2023 notification. We are concerned only with the impugned order at Exhibit “A” of 22nd December 2022.

58. For Mr Chinoy to succeed in this, he must, as he himself says show that the order is completely illegal and could never have been passed. In other words, he must be able to demonstrate that the want of a policy or a bike taxi scheme is insufficient ground to reject his application. But he must also go further and show unequivocally that this was the only ground for rejection. As we have noted as some length above, that is in fact not so. There is a detailed consideration of the various deficiencies and inadequacies in Roppen’s application itself.

59. We are also not satisfied that the want of a considered State Government policy is something that can be leveraged by aggregators to their advantage by this generalised invocation of the 2020 MoRTH Guidelines. As we have noted, the guidelines themselves contemplate the possibility of a prohibition. The Guidelines do not say that they have to be applied by a State Government without any latitude being offered to the Government to make appropriate regulations rules or frame policies in regard to the various factors that have undoubtedly to be borne in mind.

60. Where these aggregators are allowed to operate, on what terms and conditions under what conditions of service, subject to what regulations, checks, verifications and fare structures, are matters that can neither be assumed nor left for self-determination by the aggregators.

61. In this view of the matter, we see no merit in the Petition. It is rejected. There will be no order as to costs.

(S. G. Dige, J)

(G. S. Patel, J)



सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-अ

वर्ष ९, अंक ९(२)]

गुरुवार, जानेवारी १९, २०२३/पौष २९, शके १९४४

[पृष्ठे ३, किंमत : रुपये १५.००

असाधारण क्रमांक १५

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने केंद्रीय अधिनियमान्वये तयार केलेले
(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

गृह विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक १९ जानेवारी २०२३.

अधिसूचना

मोटर वाहन अधिनियम, १९८८.

क्रमांक एमव्हीआर-०८२१/प्र.क्र.१५/परि-२.—ज्याअर्थी, भारत सरकारने रस्ते वाहतूक व महामार्ग मंत्रालय (परिवहन) यांचे पत्र क्र. F. No. १६०११/९/२०१९-T, दिनांक २७ नोव्हेंबर, २०२० नुसार मोटर वाहन अधिनियम, १९८८ (५९/१९८८) च्या कलम ९३ व पोट-कलम (१) मधील विहित तरतुदीनुसार मोटर वाहन समुच्चयक मार्गदर्शक सूचना, २०२० (यांनंतर उक्त “मार्गदर्शक सूचना” म्हणून संदर्भित) जारी केल्या आहेत ;

आणि ज्याअर्थी, वरील मार्गदर्शक तत्वांच्या खंड क्र. ११ आणि १५ अन्वये अनुक्रमे परिवहनेतर वाहनांचे राईड पूलींग आणि समुच्चयन करण्याची तरतूद आहे. सदर खंड १५ मधील उप खंड (१) प्रमाणे राज्य शासनाला परिवहनेतर वाहनांचे समुच्चयन करण्यास प्रतिबंध घालण्यासाठी कारणभाव करण्याचा अधिकार प्रदान केले आहेत ;

आणि ज्याअर्थी, परिवहनेतर संवर्गातील वाहनांची (दुचाकी, तीनचाकी व चारचाकी वाहनांसह) मोठ्या प्रमाणावर वाढ होत असल्याने प्रवाशांच्या गंभीर स्वरूपाच्या व्यावहारिक समस्या निर्माण होतात. ज्यामुळे प्रवाशांच्या रस्ता सुरक्षेला गंभीर धोका निर्माण होऊ शकतो, असे दिसून येते ;

आणि ज्याअर्थी, परिवहनेतर संवर्गात नोदणी झालेल्या वाहनांची संख्या मोठ्या प्रमाणावर असल्याने महाराष्ट्र राज्याबाहेरील परिवहनेतर वाहनांचा वाहन समुच्चयन करण्यासाठी उपयोग होण्याची व त्या माध्यमातून महाराष्ट्र राज्यातील वैध परवाना प्राप्त करून वाहतूक करणाऱ्या वाहनांच्या आर्थिक व्यवहार्यतेवर विपरित परिणाम होण्याची शक्यता आहे ;

(१)

भाग चार-अ-१५-१

आणि ज्याअर्थी, समुच्चयनाच्या व राईड पूलींगच्या उद्देशासाठी परिवहनेतर वाहनांना परिवहन वाहन म्हणून वापरण्याची परवानगी द्यावी किंवा कसे या मुद्यावर अटी-शर्ती व मार्गदर्शक सूचनांबाबत तपशिलवार विचार करणे आवश्यक आहे. त्यामुळे राज्य शासनाने या मुद्याचा अभ्यास करून त्याबाबत शिफारशी देण्यासाठी समिती गठित केली आहे ;

आणि ज्याअर्थी, महाराष्ट्र राज्यात सर्वसामान्य जनता व प्रवाशांची सुरक्षितता सुनिश्चित करण्याकरिता परिवहनेतर वाहनांचा समुच्चयनाच्या उद्देशासाठी वापर करण्यास मनाई करणे शासनाला हितकारक वाटते ;

यास्तव, महाराष्ट्र शासन याद्वारे मोटार वाहन समुच्चयक मार्गदर्शक सूचना, २०२० च्या खंड १५ च्या अनुषंगाने परिवहनेतर वाहनांचा (दुचाकी, तीनचाकी व चारचाकी वाहनांसह) समुच्चयनाच्या व राईड पूलींगच्या उद्देशासाठी वापर करण्यास प्रतिबंध करीत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

राजेंद्र होळकर,
शासनाचे सहसचिव.

HOME DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, Dated the 19th January 2023.

NOTIFICATION

MOTOR VEHICLES ACT, 1988.

No. MVR-0821/C.R.95/TR-2.—Whereas, the Government of India has, *vide* Ministry of Road Transport and Highways (Transport), Letter No. F. No. 16011/9/2019-T, dated the 27th November 2020, issued the Motor Vehicle Aggregator Guidelines, 2020 (hereinafter referred to as "the said Guidelines"), under the proviso to sub-section (1) of section 93 of the Motor Vehicles Act, 1988 (59 of 1988) ;

And whereas, clauses 11 and 15 of the said Guidelines provides for ride pooling and aggregation of non-transport vehicles by aggregators, respectively. Sub-clause (1) of said clause 15 empowers the State Government to provide 'Rationale' for prohibition of non-transport vehicles pooling by aggregators ;

And whereas, it is observed that, use of non-transport vehicles (including two wheelers, three wheelers and four wheelers) as transport vehicles is on the rise enormously and raises serious practical and security concerns of the passengers and which may cause serious threat to the road safety of general public and passengers, at large ;

And whereas, the number of vehicles registered in the non-transport category is very large, therefore the non-transport vehicles registered outside the State of Maharashtra may also be used for the purpose of vehicle aggregation and may affect the economic viability of the vehicles operating on valid permits in the State of Maharashtra ;

And whereas, the issue of whether non-transport vehicles can be permitted to be used as transport vehicles, including for aggregation and ride pooling thereof requires detailed consideration regarding terms and conditions, framework and guidelines thereof. Therefore, the State Government has constituted the committee to study the said issues and to give recommendations thereof ;

And whereas, the Government considers it expedient to prohibit the pooling of non-transport vehicles by aggregators in order to ensure road safety of the general public and passengers at large in the State of Maharashtra ;

Now, therefore, the Government of Maharashtra, in pursuance of clause 15 of the Motor Vehicle Aggregator Guidelines, 2020, hereby prohibits the use of non-transport vehicles (including two wheelers, three wheelers and four wheelers) for the purposes of aggregation and ride-pooling thereof.

By order and in the name of the Governor of Maharashtra,

R. M. HOLKAR,
Joint Secretary to Government.

ASPI
20/1¹

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15991 OF 2022

District: Pune

Roppen Transportation Services Pvt. Ltd. and Anr. ... Petitioner

-Versus-

State of Maharashtra & Ors.

... Respondents

LIST OF DATES AND EVENTS

<u>Sl.</u>	<u>Date</u>	<u>Particulars</u>
1.	05.01.2015	Petitioner No.1 is incorporated.
2.	09.08.2019	Amendments to the MV Act in 2019, to Section 93 providing for vehicle aggregators to obtain a license.
3.	October 20	Petitioner No.1 commences vehicle aggregator operations inter alia in the State of Maharashtra.

	27.11.2020	<p>Motor Vehicle Aggregator Guidelines, 2020 are issued by the Ministry of Roads, Transport & Highways of Union of India, to provide a framework to State Governments for licensing and regulation of ride-pooling aggregators.</p> <p>The Guidelines provide in Cl 15 that “ <i>non transport vehicle pooling may be provided by Aggregator unless prohibited by the State Govt. Rational for such prohibition shall be specified in writing and accessible on the transport portal of the State Govt</i>” [WP : Pg 101]</p> <p>The Guidelines [clause 3(5)] provide for grant / renewal of license in Form III [which includes “ <i>auto rickshaw/ e rickshaw/ motor cab/ motorcycle or bus</i>”. [WP Pg 93 and 110]</p> <p>Clauses 7(2)(f), 8(18) and 19(3) require the State Govt to provide access to VAHAN and SARTHI portal to enable Aggregator to update details of vehicles and drivers. [WP Pg 95,97 and 104]</p> <p>Ref : WP Exh B Pgs 87 to 111.</p>
5.	22.12.2020	<p>Public Interest Litigation (L) No. 9775 of 2020 filed in this Hon'ble Court re Aggregators such as Uber operating with ^{6wk} licenses/ regulations.</p>

	03.01.2022	RTO, Pune wrote to Cyber Crime Department for State of Maharashtra, instructing it to initiate appropriate action against Petitioner No. 1 along with other aggregators.
7.	10.01.2022	Writ Petition No. 421 of 2022 is instituted before this Hon'ble Court by Petitioner No. 1, impugning order/notice dated 2 November 2020 issued by RTO Mumbai, and seeking directions to the Government of Maharashtra to consider Petitioner No. 1's representation for grant of permission for bike-taxi services.
8.	20.01.2022	<p>Respondents are directed by this Hon'ble Court's order in Writ Petition No. 421 of 2022, to consider Petitioner No. 1's representation for registering bike-taxis as contract carriage.</p> <p>Statement made on behalf of Petitioner No. 1: "He states that until the policy decision is taken, the Petitioners are willing to include a disclaimer on the app itself that such a services are presently unavailable in Maharashtra. He states that the app will be necessary for utilization in other areas in the country where such bike-taxi services are not prohibited."</p> <p><u>Ref</u> : WP : EXh D Pg 114</p>

	11.02.2022	At a hearing before Deputy Transport Commissioner, Maharashtra Petitioner No. 1 makes detailed submissions and submits its willingness to comply with any additional measures/ compliances that may be framed by Government of Maharashtra.
10.	15.02.2022	<p>Petitioner No. 1's representation is rejected on the ground that no scheme for bike-taxis was envisaged / framed by the Government of Maharashtra.</p> <p>Ref : COD : Pgs 163.</p> <p>Note: This rejection was not challenged in view of the subsequent developments ie the Order passed on 7 March 2022 in the PIL.</p>
11.	07.03.2022	<p>Order of this Hon'ble Court in PIL (I) No 9775/2020 :</p> <p>The Court observed :</p> <p><i>" that despite new statutory provisions having been brought into force in 2019 by amending sec 93 and the guidelines having been framed in Nov 2020 , the Respondent No 2 has permitted an aggregator like Uber to operate in maharashtra without insisting on compliance of the statutory requiste. At the same time we are conscious that making an order restraining UBER, which has not yet obtained the statutory license</i></p>

to operate would work to the immense prejudice and detriment of passengers who avail of the services provided by it. In such view of the matter and for the present , instead of restraining UBER from operating in the State of Maharashtra, we are inclined to grant an opportunity to it **as well other unlicensed aggregators** to apply for license as required by sec 93(1) of the Act before the Competent Authority to be empowered by the State Govt to issue license under sub section (1) of Sec 93 of the Act.

10. For such purpose , we direct the Transport Dept of the State Govt to issue appropriate notification in the official gazette forthwith and not later than 9th March 2022 empowering each and every Regional Transport Authority in the state of Mah to act as the Licensing Authority for grant of license under sub section 1 of sec 93 of the Act.

11. **It is made clear that if no application is made before 16th March 2022 by any aggregator, or an application for license is rejected by the Licensing authority, such unlicensed aggregator shall not be permitted to carry on further operations in the State of Mah till such time as an appropriate license is obtained by him.**

Ref : WP Exh F : Pg 118 – 123.

12	09.03.2022	<p>Notification No. WP-0221/C.R.11/TR2 issued by Respondent No.2 [pursuant to the order dt 7th March 2022] empowering Regional Transport Authorities in the State of Mah to act as the Licensing Authority for grant of license to aggregator under sub sec (1) of sec 93 and requiring aggregators to apply for a license on or before 16th March 2022 and stipulating that if an aggregator does not apply for a license on or before 16th March , or the application is rejected by the competent authority , the aggregator shall not be permitted to carry on operations in the state of Mah , till such time an appropriate license is obtained by the Aggregator.</p> <p><u>Ref</u> : WP Exh G Pg 126</p>
13	16.03.2022	<p>In view of the said Notification and the said order the Petitioners re-commenced operations of three wheelers and two wheelers in Maharashtra .</p> <p>The Petitioner No. 1 also filed by the stipulated dt : 16th March , application(s) for an aggregator license for three wheelers and two wheelers with Regional Transport Authorities (RTA) of Respondent No. 1.</p>

14	29.03.2022	<p>Letter issued by RTO, Pune to Petitioner No. 1, informing that its application dated 16 March 2022 was not in proper form, calling upon the Petitioner No. 1 to furnish particulars in less than 24 hours of 29 March 2022.</p> <p><u>Ref</u> : COD pg 167</p>
15	29.03.2022	Petitioner No. 1 promptly re-submitted its application on 29 March 2022, before RTA Pune.
16	31.03.2022	Provisional licenses [valid for a period of 30 days] are issued to Ms UBER , OLA [ANI Technologies P Ltd], Meru Mobility, Mahindra Logistics for cabs & three wheelers .
17.	21.04.2022	<p>Special Leave Petition No. 5705 of 2022 (SLP) filed by Uber India Systems Private Limited (Uber) challenging 7 March 2022 order. Supreme Court made an order , directing <i>status quo</i> to be maintained</p> <p>Ref : WP Exh H Pg 128.</p>

18.	03.08.2022	<p>Counter Affidavit filed by the State of Maharashtra in the Uber SLP , stating that : "<i>further as per the High Court order dt 7th march 2022 the Motor Vehicle Aggregator Guidelines 2020 dt 27.11.2020 is in force in State of Maharashtra</i> " [Para 3 Pg 132-133] and that 17 provisional aggregator licenses dt 31.3.2022 had been granted to Uber, ANI technologies , Meru Mobility , Mahindra Logistics , OV Cabs and Ms Media Miles for cabs and three wheelers.</p> <p>Note: The provisional licences were valid only for a period of 30 days as noted at the bottom of each of the licences and had accordingly expired by end of April.</p> <p>Ref : WP Exh J Pg 131 .</p>
19	20.10.2022	<p>RTA, Pune informs Petitioner No. 1 for the first time through letter/order informing that the application and the re-submitted application stood rejected by an order dated 1 April 2022 (which was not received by Petitioner No. 1 until 20 October 2022) on the ground that Petitioner No. 1's operations were illegal in Maharashtra, and that its continued operations in Pune are leading to an alleged law and order situation owing to threats of strikes and other coercive actions by auto-rickshaw unions.</p> <p>Ref : WP Exh I Pg 129 . [Translation at COD Pg 263]</p>

(WEST)

20.	15.11.2022	<p>RTO/ Mumbai addressed a letter to Petitioner No. 1 intimating that the RTA had directed it to keep the application of Petitioner No.1 in abeyance pending the Hon'ble Supreme Court's final verdict in the SLP, in view of the status quo order.</p> <p>Accordingly Petitioner No 1's application to RTO Mumbai is still pending.</p> <p>Ref : WP Exh K Pg 135 . [Translation at COD Pg 374]</p>
21.	18.11.2022	<p>Appeal No. 13 (St.) of 2022 (against order dated 1 April 2022, of RTA Pune) is filed by Petitioner No. 1 before the Hon'ble State Transport Appellate Tribunal Maharashtra.</p>
22.	25.11.2022	<p>Writ Petition No. 14644 of 2022, seeking <i>inter alia</i> setting aside of the letter/order dated 20 October 2022 is filed by Petitioner No. 1.</p>
23.	29.11.2022	<p>Order of this Honble Court in Writ Petition No. 14644 of 2022 setting aside RTA Pune's letter/order dated 20 October 2022 and remanding the application/ matter for fresh consideration.</p> <p>Ref : WP Exh M Pg 140.</p>

24.	30.11.2022	An application along with further documents is filed by Petitioner No. 1 with RTA, Pune pursuant to the Order dated 29 November 2022.
11.	08.12.2022	Pursuant to meeting with the RTA, Pune representatives, Petitioner No. 1 requests 30 days' time to file additional documents in light of a verification report having been shared only 72 hours prior to the scheduled meeting.
25.	16.12.2022 and 20.12.2022	Second and third hearing by RTA, Pune were held, at which point additional documents were submitted by Petitioner No. 1 along with seeking additional time of 30 days for undertaking necessary compliances of remaining clauses of the Aggregator Guidelines.
26.	22.12.2022	RTA, Pune passes the impugned order, rejecting Petitioner No. 1's application for aggregator's license re three wheelers and re two wheelers on the ground that (i) " vehicles used for passenger transport by them are of private category, thereby violating section 66/92(a) of the Motor Vehicles Act " [Para 5 pg 82 also Para 14 Pg 83] (ii) There is currently no state govt policy on licensing bike taxis . Also there is no fare structure policy for bike taxis " [Para 7 Pg 82 also Para 1. Pg 84]

		<p>(iii) that the Applications were not complete is divers respects.</p> <p>Ref : WP Exh A Pg 58 . Translated copy at Pg 75.</p>
27.	27.12.2022	Petitioners filed Writ Petition No. 15991 of 2022 challenging the RTA Pune order of 22 December 2022.
28.	02.01.2023	Petitioner No. 1 filed an Intervention Application bearing No. 660 of 2023 in the pending Special Leave Petition (Civil) No. 5705 of 2022 (on 2 January 2023) of Uber India Systems Private Limited, wherein the <i>status quo</i> order continues to remain in operation.
29.	17.01.2023	Affidavit filed by Petitioner No.1 in this Hon'ble Court, pointing out that SLPs are instituted, and also dealing with licensing in other States in which it is in operation (22 States, 100 cities), including protective judicial order of the Hon'ble Karnataka High Court

Exhibit-A1

Regional Transport Authority, Pune (Pune,
Pimpri-Chinchwad, Baramati)
Joint Meeting No. 68/2022

Regional Transport Authority, Pune dated 29.12.2022 at 05.00 PM Hon. of the meeting held
at Collectorate, Pune

Chronicle

The following officials were present in the meeting

Hon. Dr. Rajesh Deshmukh
Pune Collector

Chairman

Regional Transport Authority,
Pune

Mr. Vijay Magar

Deputy Commissioner of Police (Traffic), Pune

Member

Regional Transport Authority,
Pune

Hon. Dr. Ajit Shinde

Regional Transport Officer, Pune

Member

Regional Transport Authority,
Pune

Hon. Shri. Atul Ade

Deputy Regional Transport Officer, Pimpri-
Chinchwad

Member Secretary,

Regional Transport Authority,
Pimpri Chinchwad

Hon. Shri. Rajendra Keskar

Deputy Regional Transport Officer, Baramati

Member Secretary,

Regional Transport Authority,
Baramati

The meeting started at 05.00 hrs. at the beginning of the meeting Member Secretary and Regional Transport Officer Dr. Ajit Shinde welcomed the participants and introduced the agenda.

Subject No. 1 : To read and uphold the minutes of the previous meeting of the Regional Transport Authority, Pune dated 20.12.2022.

Decision: Minutes were read and sustained.

Subject No. 2 : In Writ Petition No. 14644/2022, implementation of the order of the Hon'ble High Court, Bombay dated 29/11/2022 and related Motor Vehicle Aggregator Rules 2020 as per M/s. Roppen Transportation Services Pvt. Ltd. Proceedings on its application dated 30/11/2022 for getting aggregator license for two wheeler and three wheeler taxi.

According to the decision taken under subject no. 3 of the meeting of Regional Transport Authority, Pune dated 20.12.2022 regarding the above subject.

Roppen Transportation Services Pvt. Ltd. A meeting of the authority was held on 21.12.2022 for the action on the application dated 30/11/2022 for obtaining an aggregator license for two wheeler and three wheeler taxis.

Brief Background:

The Central Government had issued guidelines on 27.11.2020 regarding the issuance of Aggregator License. On that basis, to get license of two-wheeler and three-wheeler aggregator (Aggregator License) the application of Roppen Transportation Services Pvt. Ltd., Pune was received by the Regional Transport Office, Pune on 16.03.2022. Accordingly, six Regional Transport Officers Pune / Pimpri Chinchwad were appointed to submit the report.

Errors were found in the documents submitted by the applicant and in the actual visit. Deputy Regional Transport Officer gave instructions for immediate rectification by 17.03.2022 and 23.03.2022 in order to correct and resolve the errors. However, as all the errors were not rectified by them, the applicant was informed about their rectification. Before submitting the said proposal to Hon'ble Regional Transport Authority, Pune, the applicant was again given an opportunity to hold a meeting on 30.03.2022 and to rectify the errors in the meeting.

However, M/s. Roppen Transportation Services Pvt. Ltd., Pune did not rectify the errors in the application within the prescribed time limit. Also, an application was submitted for Roppen Transportation Services Pvt Ltd, Pune Bike Taxi. Government of Maharashtra / State Transport Authority has not yet issued license for bike taxis.

Taking into consideration all the above factors, Roppen's application for getting an aggregator license was decided to be rejected by the Hon'ble Regional Transport Authority, Pune, in its meeting dated 31.03.2022. As a result, Roppen's application, received on March 16,2022, was rejected on March 31,2022. The order for the implementation of the said decision was issued to Roppen Transportation Services Pvt. Ltd., Pune, on 01.04.2022.

Hon. High Court Order:

In Writ Petition No. 14644/2022 filed in Hon'ble High Court, Bombay by Roppen Transportation Services Pvt. Ltd. an order to reconsider the application was passed by the Hon. High Court on 29.11.2022.

Re-application of Roppen Transportation Services Pvt. Ltd:

On 30.11.2022, M/s. Roppen Transportation Services Pvt. Ltd. in order to get an aggregator license, submitted another application for getting license to provide app-based services in two-wheeler and three-wheeler categories.

2

3

On 02-12-2022, six Regional Transport Officers were appointed to inspect and submit a report at their office on the re-application received from M/s. Roppen Transportation Services Private Limited. Six regional transport officers visited Roppen's office on 02-12-2022 and mentioned the errors found in the report.

Hearing (1) Dated 08.12.2022:

According to the report submitted by the six regional transport officers, informed M/s. Roppen Transportation Services Private Limited by letter dated 05/12/2022, to rectify the deficiencies found. A hearing was held in the chambers of the Deputy Regional Transport Officer at the Regional Transport Office on 08/12/2022 as an opportunity for the applicant to present his side in the said case. In the said hearing, (1) Shri. Sanjeev Bhor, Deputy Regional Transport Officer, Pune (2) Smt. Sharda Wadekar, Motor Vehicle Prosecutor, Pune (3) Shri. Rajendra Patil, six. Regional Transport Officer, Pune and (4) M/s. Roppen Transportation Services Pvt. Ltd. Adv. Aman Dutta were present.

During the hearing, Advocate Mr. Aman Dutta submitted 189 pages of documents and the said documents have been verified. Pursuant to the hearing dated 05.12.2022 M/s. Ropan Transportation Services Pvt. Ltd. During the hearing it was seen that some of the errors mentioned in the letter given to him have not been rectified. M/s. Ropan Transportation Services Pvt Ltd for correcting the remaining documents in accordance with the errors, his lawyers had requested in writing to get a deadline of 30 days.

In this background, M/s. Roppen Transportation Services Private Limited was given 7 days, starting on December 9, 2022, as another opportunity to present his case. On 16/12/2022, Representative of Roppen again organized a hearing at the Regional Transport Office, Dr. Ambedkar Road, Sangam Bridge, Pune-411001 organized the hearing and instructed to attend the said hearing.

Hearing (2) Dated 16.12.2022 :

The second hearing was held on 16/12/2022 regarding the reapplication submitted by Roppen on 30/11/2022 for obtaining aggregator license. At the said hearing (1) Mr. Sanjiv Bhor, Deputy Regional Transport Officer, Pune (2) Mrs. Sharda Wadekar, Motor Vehicle Prosecutor, Pune (3) Shri. Rajendra Patil, six. Regional Transport Officer, Pune (4) Shri. Anantharaje Bhosle, Sixth Regional Transport Officer, Pune (5) M/s. Roppen Transportation Services Pvt. Ltd. Adv. Aman Dutta and (6) Shri. Ravi Kapse was present

In this hearing, Roppen's lawyer had submitted a total of 114 pages of documents. Roppen's lawyers had once again requested in writing 30 days to cover the remaining errors.

Hearing (3) Dated 20.12.2022 :

Ms/. Roppen Transportation Services Private Limited sought a 30-day extension during the hearing on 16/12/2022 to submit documents. Its request for an extension was denied as on December 19, 2022. Roppen's representatives appeared before the authority on 20.12.2022. Roppen's lawyer, Aman Dutt, and the representative, Shri Ravi Kapse, were both present at the hearing. They mentioned that they had received the letter yesterday, dated 19/12/2022 rejecting his application for a 30-day extension. The work is underway to complete the documents as per the instructions required for aggregate license. It was requested that they issue a temporary license to do business until then. Also, 99 pages document have been submitted for their written statement as well as for remedying the errors in the application and they have submitted DD No. 060410, dated 20.12.2022, for Rs. 1,00,000/- as a security deposit. During the hearing Roppen's Advocate Mr. Aman Dutta submitted documents; appropriate action will be taken after verifying the documents. The Hon'ble president said that.

Preface to the proposal:

1. M/s. Roppen Transportation Services Pvt. Ltd. That is, an application has been submitted for obtaining a license to provide app-based services in the categories of two-wheelers and three-wheelers.

2. The applicant has not yet rectified the following errors.

3. In the application submitted on 30/11/2022, the applicant has provided the registration numbers of 100 two-wheelers and 100 rickshaw taxis, along with the respective driver and license numbers. However, in the 189 pages of documents submitted on 08/12/2022, the documents of 100 two wheelers and 100 three wheelers mentioned in the applications on 30/11/2022 are not found to be attached, on the contrary, it was found that the documents of 65 new two wheelers were attached. Also, in the documents submitted on 16/12/2022, instead of the number of 100 three-wheelers mentioned on 30/11/2022, the documents have been submitted by mentioning the numbers of 33 new autorickshaws. Not only this, but among the newly submitted two-wheeler and rickshaw documents on 08/12/2022 and 16/12/2022, many of the two-wheeler and rickshaw documents have been found to be insufficient. A list of two- and three-wheelers is attached (total: 9 pages). Dated 20/12/2022 While verifying the documents submitted by the applicant, the aggregate details of the errors found are as

follows:

(a) Errors in two-wheeler (bike) documents :

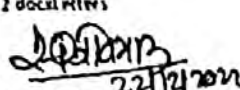
- I. Bikes without insurance policy : 33
- II. Pollution Control Certificate Act, Not Acceptable : 55
- III. License not valid: 3
- IV. License not submitted : 14
- V. Drivers with experience less than two years : 14

Also, the errors found are given in the following table.

Table - 1 (Two Wheeler Bike)

MOTOR VEHICLE AGGREGATOR GUIDELINES, 2020 ClauseNo.	REQUIRMENTS AS PER GUIDELINES	REMARK ABOUT COMPLIANCE
20 and 21	Application and fees and Security Deposit as specified in clause 20 and 21	Fees Complied DD of Rs. 5 Lakh, vide DD No.536728 dated 25.03.2022 Bank security deposit of Rs.1 Lakh vide DD No. 060410 dated 20.12.2022 of ICICI Bank.
4	Eligibility of an Aggregator i) Company registered under Companies Act, Drivers / Motor Vehicles Owners or such other association or Limited liability partnership under the Limited Liability Partnership Act, 2008 ii) Company should have Registered office in India iii) It should Comply provisions of Information Technology Act, 2000 including Intermediary guidelines	Complied i) Certificate of Incorporation attached. The CIN of the company is U60231TG2015PTC097115 issued by Deputy Registrar of Companies, Telangana. ii) Roppen Transportation Services Pvt. Ltd. Plot No 24/NP, sector-2C, Alkapur Township, Puppalguda, Manikonda, Hyderabad-50089, Telangana, India. iii) Not Complied (Undertaking attached without authorised signature and stamp)
5	CONDITIONS FOR GRANT OF LICENSE FOR AGGREGATOR	
5(1)	The Applicant to comply with 6, 7, 8 and 9 of the guidelines	Some of the guidelines are not complied
5(2)	Driving Test Facility, Simulator and set for conducting induction training programme	Not Complied (Undertaking attached without authorised signature and stamp). Purchase invoice copies not attached.
5(3)	Aggregator shall commence its business operation within 6 months from grant of licence. Failing which licence shall be cancelled	Aggregator has commenced business operation without valid licence TRUE COPY

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6	Aggregator to facilitate implementation of EV and alternative fuel policy.	EV vehicles are not included in list provided by applicant
7	COMPLIANCE WITH REGARDS TO DRIVERS	
7(1)(a)	Election card or Aadhar card or PAN card	79 Two Wheeler Bike drivers documents attached.
7(1)(b)	Driving licence to drive relevant vehicle and badge	License attached of non transport category.
7(1)(c)	Minimum 2 years experience, in case of less than 2 years experience, the driver shall undertake a driver training facilitated by Aggregator	1. 14 drivers of Two Wheeler Bike without two years experience. 2. Proof of driver training facilitation by aggregator not complied.
7(1)(d)	Drivers KYC compliant bank account or JanDhan account details	KYC compliance certificate from concerned bank not attached.
7(1)(e)	The driver of the vehicle shall have been convicted within the past 3 years, for the offence of driving under the influence of drugs or alcohol, or any cognizable offence under The Code of Criminal Procedure	Not complied.
7(1)(f)	Medical examination	Not complied (Undertaking attached without authorised signature and stamp)
7(1)(g)	Police Verification report	Not complied (Undertaking attached without authorised signature and stamp).
7(1)(h)	Enforceable Service Provider Contract with the relevant driver in English and language understood by the driver	Contract copies are not attached.
7(2)	THE AGGREGATOR SHALL ENSURE COMPLIANCE WITH THE FOLLOWING CONDITIONS, RELEVANT TO DRIVERS, DURING OPERATIONS :	
7(2)(a)	Health insurance (minimum Rs.5 Lakh)	Not complied (list of beneficiaries not attached)
7(2)(b)	Term insurance (minimum Rs.10 Lakh)	Not complied (list of beneficiaries not attached)
7(2)(c)	Refresher training programme	Not complied
7(2)(d)	Driving hours (12hrs in one calendar day)	The terms and conditions of the app restrict drivers from plying more than twelve hours (proof not attached).
7(2)(e)	Multi-app driving hours	The terms and conditions of the app restrict drivers from plying more than twelve hours (proof not attached).
7(2)(f)	SARATHI Portal	Subject to sanction of aggregator licence
7(2)(g)	A photograph of the driver	Photographs of 65 drivers attached out of 79 (But Black and white not proper visible photo copies attached).
7(2)(h)	Driving licence	Driving license of 65 drivers attached. License not attached / not visible copies - 14

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7(2) (i)	Present residential address along-with proof	Address proof of some of the bikers not attached.
7(2) (j)	RBI compliant KYC bank account details	List of 65 Bike drivers account detail attached but KYC details not provided.
7(2) (k)	Self-attested copies of Election card or Aadhaar card or PAN card.	Not complied
7(2) (l)	Drivers family contact (Minimum 2 contacts)	Not Complied . Captains and customers are asked to add up to 4 emergency contact on rapido app. A screen shot attached but drivers family contact details are not provided.
7(2) (m)	Enabling the drivers to operate with multiple aggregators	Not complied
7(2) (n)	Return of brand, stickers and equipment	Undertaking attached without authorised signature and stamp
8	COMPLIANCE WITH REGARDS TO VEHICLES	
8(1)	Valid registration of vehicle	List of 79 Bike attached .
8(2)	Valid permit	Not Complied.
8(3)	Valid fitness certificate	All documents related to two wheeler bike are provided of non transport category.
8(4)	Registration mark	List of 79 Bike attached.
8(5)	Third party insurance	Expired insurance of 33 Two Wheeler Bike out of 79
8(6)	PUC	Expired PUC of 55 Two Wheeler Bike out of 79.
8(7)	BS IV or above norms	As per Registration certificate
8(8)	City specific fuel norms	Not Applicable
8(9)	Taxes and dues	Complied
8(10)	Clearance of pending E-challans	Not Complied
8(11)	Fitment of AIS140 Vehicle tracking and monitoring system with panic button	Not Applicable
8(12)	Fire extinguisher	Not Applicable
8(13)	Child lock mechanism	Not Applicable
8(14)	Manual override of central locking system	Not Applicable
8(15)	Display of vehicle permit and MDL of driver inside the vehicle	Not Applicable
8(16)	Fitment of TAXI roof sign	Not Applicable
8(17)	Digital Record to be updated on VAHAN portal	Subject to sanction of aggregator licence
9	COMPLIANCES WITH REGARD TO THE AGGREGATOR'S APP AND WEBSITE	
9(1)	The App shall be complied with applicable law.	Not complied (IT Act proof not produced) (Undertaking attached without authorised signature and stamp)
9(2)	App shall be accessible in English, Hindi and Marathi Language.	Not complied (Marathi App proof not produced)
9(3)	Certificate from cyber security firm to be submitted.	Not complied (Undertaking attached without authorised signature and stamp)

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9(4)	The server of the App shall be in India with Storage capacity of store data for a period of 3 months to 24 months.	Complied
9(8)	Pictures / Photo of the driver	Photographes of 65 drivers attached out of 79 (But Black and white not proper visible photo copies attached).
9(10)	Zero Tolerance policy	Not Complied (Undertaking attached without authorised signature and stamp)
9(11)	Establishing 24 x 7 control room	Central control room at Hyderabad
9(12)	Establishing call centre having valid telephone number, operational Email address to be displayed on App and website. 24 x 7 operation and assistance to the rider and passengers.	Rapido have IP based call centre operationg 24 x 7 for assisting the customer and captains. The said calls are routed through the app link.
9(13)	Extending utmost cooperation to investigating authorities in relation to any untoward accident or incident.	Undertaking attached without authorised signature and stamp
9(14)	City Taxi Scheme if any shall be permitted for such integration	Not Applicable
10	COMPLIANCE TO ENSURE SAFETY	Undertaking attached without authorised signature and stamp
10(1)	GPS to be installed in all the vehicles	Not Complied.
12	Non discrimination policy to be followed by Aggregator Vehicles owned by the Aggregators are treated at parity with those vehicles which are not Aggregator owned.	Undertaking attached without authorised signature and stamp
13	Regulation of fares shall be in accordance to the State Policy	Fares structure formula provided for two wheeler bike taxi. However State has not provided fare structure policy for two wheeler bike taxi.
NOTE	<p>1. On 30.11.2022 Aggregator submitted application with 100 two wheeler bike registration numbers only. However applicant has not provided documents of vehicles and license of drivers of 100 vehicles.</p> <p>2. 79 two wheeler bike documents produced out of which following discrepancies found (list attached Annexure - 1).</p> <p>i. Expired Insurance certificate - 33.</p> <p>ii. Expired PUC - 55.</p> <p>iii. License with Experience less than two years - 14.</p> <p>iv. Expired driving licence - 03</p> <p>v. Licence not attached / not visible - 14.</p> <p>3. All submitted documents related to driving licence and registration certificate are verified from Saarthi and Vahan Portal.</p> <p style="text-align: right;">TRUE COPY</p>	

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B) Three Wheeler (Error in Taxi Document :

- I. Bikes without insurance cover : 52
- II. License not valid : 3
- III. Eligibility certificate not admissible : 29
- IV. Pollution control certificate not valid : 53
- V. License not valid: 5
- VI. Passenger badge not presented : 40

Three Wheeler Passenger Vehicle License Not Submitted / Unclear Xerox : 40

Also the errors found are given in the following table.

Table - 2 (Three Wheeler Taxi)

MOTOR VEHICLE AGGREGATOR GUIDELINES, 2020 ClauseNo.	REQUIRMENTS AS PER GUIDELINES	REMARK ABOUT COMPLIANCE
20 and 21	Application and fees and Security Deposit as specified in clause 20 and 21	Fees Complied DD of Rs. 5 Lakh, vide DD No.536728 dated 25.03.2022 Bank security deposit of Rs.1 Lakh vide DD No. 060410 dated 20.12.2022 of ICICI Bank.
4	Eligibility of an Aggregator i) Company registered under Companies Act, Drivers / Motor Vehicles Owners or such other association or Limited liability partnership under the Limited Liability Partnership Act, 2008 ii) Company should have Registered office in India iii) It should Comply provisions of Information Technology Act, 2000 including Intermediary guidelines	Complied i) Certificate of Incorporation attached. The CIN of the company is U60231TG2015PTC097115 issued by Deputy Registrar of Companies, Telangana. ii) Roppen Transportation Services Pvt. Ltd. Plot No 24/NP, sector-2C, Alkapur Township, Puppalguda, Manikonda, Hyderabad-50089, Telangana, India. iii) Not Complied (Undertaking attached without authorised signature and stamp)
5	CONDITIONS FOR GRANT OF LICENSE FOR AGGREGATOR	
5(1)	The Applicant to comply with 6, 7, 8 and 9 of the guidelines	Some of the guidelines are not complied
5(2)	Driving Test Facility , Simulator and set for conducting induction training programme	Not Complied (Undertaking attached without authorised signature and stamp). Purchase invoice copies not attached.
5(3)	Aggregator shall commence its business operation within 6 months from grant of licence. Failing which licence shall be cancelled	Aggregator has commenced business operation without valid licence
6	Aggregator to facilitate implementation of EV and alternative fuel policy.	EV vehicles are not included in list provided by applicant TRUE COPY

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7	COMPLIANCE WITH REGARDS TO DRIVERS	
7(1) (a)	Election card or Aadhar card or PAN card	86 Three Wheeler Taxi drivers documents attached.
7(1) (b)	Driving licence to drive relevant vehicle and badge	Three Wheeler Taxi badge not attached - 40 Three Wheeler licence expired - 05 Three Wheeler licence not attached / not visible - 40
7(1) (c)	Minimum 2 years experience, in case of less than 2 years experience, the driver shall undertake a driver training facilitated by Aggregator	02 drivers of Three Wheeler Taxi without two years experience. Proof of driver training facilitation by aggregator not complied.
7(1) (d)	Drivers KYC compliant bank account or JanDhan account details	KYC compliance certificate from concerned bank not attached.
7(1) (e)	The driver of the vehicle shall have been convicted within the past 3 years, for the offence of driving under the influence of drugs or alcohol, or any cognizable offence under The Code of Criminal Procedure	Not complied.
7(1) (f)	Medical examination	Not complied (Undertaking attached without authorised signature and stamp)
7(1) (g)	Police Verification report	Not complied (Undertaking attached without authorised signature and stamp).
7(1) (h)	Enforceable Service Provider Contract with the relevant driver in English and language understood by the driver	Contract copies are not attached.
7(2)	THE AGGREGATOR SHALL ENSURE COMPLIANCE WITH THE FOLLOWING CONDITIONS, RELEVANT TO DRIVERS, DURING OPERATIONS :	
7(2) (a)	Health insurance (minimum Rs.5 Lakh)	Not complied (list of beneficiaries not attached)
7(2) (b)	Term insurance (minimum Rs.10 Lakh)	Not complied (list of beneficiaries not attached)
7(2) (c)	Refresher training programme	Not complied
7(2) (d)	Driving hours (12hrs in one calendar day)	The terms and conditions of the app restrict drivers from plying more than twelve hours (proof not attached).
7(2) (e)	Multi-app driving hours	The terms and conditions of the app restrict drivers from plying more than twelve hours (proof not attached).
7(2) (f)	SARATHI Portal	Subject to sanction of aggregator licence
7(2) (g)	A photograph of the driver	Complied (But Black and white not proper visible photo copies attached).

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7(2) (h)	Driving licence	Driving License Expired - 05 Licence not attached / not visible - 40 License below two years experience -02
7(2) (i)	Present residential address along-with proof	Incomplete.
7(2) (j)	RBI compliant KYC bank account details	KYC details not provided.
7(2) (k)	Self-attested copies of Election card or Aadhaar card or PAN card.	Not complied
7(2) (l)	Drivers family contact (Minimum 2 contacts)	Not Complied . Captains and customers are asked to add up to 4 emergency contact on rapido app. A screen shot attached but drivers family contact details are not provided.
7(2) (m)	Enabling the drivers to operate with multiple aggregators	Not complied
7(2) (n)	Return of brand, stickers and equipment	Undertaking attached without authorised signature and stamp
8	COMPLIANCE WITH REGARDS TO VEHICLES	
8(1)	Valid registration of vehicle	RC details attached - 80 RC details not submitted - 6
8(2)	Valid permit	Permit Expired - 3
8(3)	Valid fitness certificate	Fitness Expired - 29
8(4)	Registration mark	RC details attached - 80 RC details not submitted - 6
8(5)	Third party insurance	Insurance Expired - 52
8(6)	PUC	PUC Expired - 56
8(7)	BS IV or above norms	As per Registration certificate
8(8)	City specific fuel norms	Not applicable
8(9)	Taxes and dues	Complied
8(10)	Clearance of pending E-challans	Not complied
8(11)	Fitment of AIS140 Vehicle tracking and monitoring system with panic button	Not complied.
8(12)	Fire extinguisher	Not complied
8(13)	Child lock mechanism	Not applicable
8(14)	Manual override of central locking system	Not applicable
8(15)	Display of vehicle permit and MDL of driver inside the vehicle	Not complied
8(16)	Fitment of TAXI roof sign	Not applicable.
8(17)	Digital Record to be updated on VAHAN portal	Subject to sanction of aggregator licence
9	COMPLIANCES WITH REGARD TO THE AGGREGATOR'S APP AND WEBSITE	
9(1)	The App shall be complied with applicable law.	Not complied (IT Act proof not produced) (Undertaking attached without authorised signature and stamp)
9(2)	App shall be accessible in English, Hindi and Marathi Language.	Not complied (Marathi App proof not produced)

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9(3)	Certificate from cyber security firm to be submitted.	Not complied (Undertaking attached without authorised signature and stamp)
9(4)	The server of the App shall be in India with Storage capacity of store data for a period of 3 months to 24 months.	Complied
9(8)	Pictures / Photo of the driver	Photographies of drivers attached (But Black and white and not proper visible photo copies attached).
9(10)	Zero Tolerance policy	Not Complied (Undertaking attached without authorised signature and stamp)
9(11)	Establishing 24 x 7 control room	Central control room at Hyderabad
9(12)	Establishing call centre having valid telephone number, operational Email address to be displayed on App and website. 24 x 7 operation and assistance to the rider and passengers.	Rapido have IP based call centre operations 24x7 for assisting the customer and captains. The said calls are routed through the app link.
9(13)	Extending utmost cooperation to investigating authorities in relation to any untoward accident or incident.	Undertaking attached without authorised signature and stamp
9(14)	City Taxi Scheme if any shall be permitted for such integration	Not applicable
10	COMPLIANCE TO ENSURE SAFETY	Undertaking attached without authorised signature and stamp
10(1)	GPS to be installed in all the vehicles	Not Complied.
12	Non discrimination policy to be followed by Aggregator Vehicles owned by the Aggregators are treated at parity with those vehicles which are not Aggregator owned.	Undertaking attached without authorised signature and stamp
13	Regulation of fares shall be in accordance to the State Policy	Fares structure formula for three wheeler taxi not provided.
NOTE	<p>1. On 30.11.2022 Aggregator submitted application with 100 Three Wheeler Taxi vehicle numbers only. However applicant has not provided documents of vehicles and license of drivers of 100 vehicles.</p> <p>2. Total 86 Three Wheeler Taxi documents produced out of which following discrepancies found (list attached Annexure - 2)</p> <p>i. Expired insurance Certificate - 52</p> <p>ii. Expired Permit - 03</p> <p>iii. Without fitness certificate - 29</p> <p>iv. Expired PUC - 56</p> <p>v. Three Wheeler licence expired - 05</p> <p>vi. Three Wheeler Without badge / not attached - 40</p> <p>vii. Three Wheeler licence not attached / not visible - 40</p> <p>3. All submitted documents related to driving licence and registration certificate are verified from Saarthi and Vahan Portal.</p>	

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4. As per Roppen's official press note dated 12/12/2022 (press note attached), despite having 57,000 captains/vehicles attached, between hearings 1 and 2, the company has submitted documents for only 65 two-wheelers and 33 three-wheeler taxi vehicles. Not only this, but many other documents for two-wheelers and rickshaws are incomplete.

5. According to S.O. 1248 (E) dated 05/11/2004, vehicles are classified as transport vehicles (transport) and non-transport vehicles (non-transport) depending on the use of the vehicle. Accordingly, "*Motorcycle use for hire to carry one passenger on pillion and motorised cycle rickshaw for goods or passenger on hire*" there is a notification to register in the transport cadre. Accordingly, Roppen has not submitted the list of two-wheelers in the transport category. However, the vehicles used for passenger transport through them belong to the private sector. Therefore, Section 66/192(a) of the Motor Vehicles Act 1988 is being violated.

✓ 6. The applicant has submitted an application for a Bike taxi and a three-wheeler taxi. However, no such bike taxi scheme has been implemented by the government or the state transport authority in the state of Maharashtra. A bike taxi licence has also not been issued. Also, as per Section 4(3) of the Motor Vehicles Rules, 1989, a driver must have a PSV badge to drive a public service vehicle.

✓ 7. There is currently no state government policy on licensing bike taxis. Also, there is no fare structure policy for bike taxis.

8. The applicant has not fulfilled some of the conditions mentioned in the above-mentioned table in the motor vehicle aggregator guidelines 2020, and the app-based passenger transport service through private two-wheelers through M/s. Roppen Transportation Services Private Limited is currently being illegally operated without any aggregator license being issued to him.

✓ 9. During the hearing in the matter of Writ Petition No. 421/2022 dated 20/01/2022 filed in the Hon'ble High Court, Mumbai as per the direction of the Hon'ble High Court, Mumbai, until the policy decision regarding the bike taxi service is taken, the plaintiff (Mr. Roppen Transportation Services Pvt. Ltd.) must display a disclaimer on their app saying, "SUCH SERVICES ARE PRESENTLY UNAVAILABLE IN MAHARASHTRA" However, this directive is continuously being violated by the applicants.

10. Public Interest Litigation No. (L) dated 1775/2020. According to the order dated 07/03/2022, instructions have been issued that if the aggregators do not apply before 16/03/2022 or if the application is rejected by the authority, such unlicensed aggregators will not be allowed to continue business in the state of Maharashtra. Government of Maharashtra, Home Department. By notification dated 09/03/2022, the aggregator has made it mandatory to obtain the license for passenger transport through the app and website from the competent authority under the Central Government's Motor Vehicles Aggregator Guidelines 2020.

✓ 11. In Writ Petition No. 14644/2022 filed before the Hon'ble Bombay High Court, M/s Roppen Transportation Services Pvt. Ltd. Hon'ble High Court on 29/11/2022 has ordered reconsideration of the application given for obtaining aggregator license. Accordingly, the applicant submitted an application to the Regional Transport Authority on 30/11/2022 for obtaining an aggregator license. But the applicant has not submitted the necessary documents along with the said application fulfilling the conditions mentioned in the aggregator policy. The applicant was asked from time to time to complete the documents by giving sufficient time during the hearing.

✓ 12. Accordingly, the hearing of the above matter by the Regional Transport Authority followed the principle of natural justice and the applicant was given sufficient opportunity to present his views. But it has been pointed out that the applicant in the said case is only making maneuvers to delay the hearing by filing operational documents. The applicant has not fully complied with the provisions of the Motor Vehicles Act, 1988 and the Motor Vehicles Aggregator Guidelines 2020

13. The applicant knew the terms and conditions under the Motor Vehicle Aggregator Guidelines 2020 for obtaining the said license from the date of application dated 16/03/2022 (first application) for obtaining the said license. The applicant had stated that he had submitted the application on 29.03.2022 in the Hon'ble Court during the hearing of Petition No. 14644/2022. However, he had deposited only DD in this office dated 29.03.2022. According to the applicant, even at the time of application dated 29/03/2022, he was aware of the terms and conditions contained in the said guidelines. Therefore, the applicant was expected to file his above re-application dated 30/11/2022 only after fulfilling the terms and conditions contained in the said guidelines. Even so, the principle of natural justice has been followed by giving sufficient opportunity to the applicant to file his arguments and documents during the hearing.

14. The applicant has not submitted the list of two-wheelers belonging to the transport cadre. In exercise of the powers conferred under Section 93 (1) of the Motor Vehicles Act, 1988 by the Government of Maharashtra to the Regional Transport Authorities in the State as competent authorities for issuing licenses to aggregates and to The State Transport Appellate Tribunal under Section 93(1) has been authorized as the Appellate Authority. According to Sections 89, 90 of the Motor Vehicle Act, 1988 and Rule 97 of the Maharashtra Motor Vehicle Rules, 1989, the State Transport Appellate Tribunal, Mumbai can submit an appeal to the State Transport Appellate Tribunal within 30 days regarding the application rejected by the Regional Transport Authority.

Proposal:

As the applicant has not yet rectified the errors as mentioned in page no. 5 to 12, and also has not submitted complete information along with the application, he does not meet the guidelines of the Motor Vehicles Aggregator Guidelines 2020 of the Central Government. Therefore, M/s Roppen Transportation Services Pvt. Ltd. Submitting their application for obtaining aggregate license for two-wheeler and three-wheeler taxis for consideration.

Decision:

1. **Two Wheeler Bike Taxi Aggregator License :** Applicant M/s.. Roppen Transportation Services Pvt. Ltd. for getting his two wheeler bike taxi aggregator license Application dated 30/11/2022 Important matters in Motor Vehicle Aggregate Rules - 2020 viz. 4 (3), 5 (1), 5(2), 5(3), 7(1)(c), 7(1)(c), 7(1)(1), 7(1)(g)), 7(1)(h), 7(2)(a), 7(2)(b), 7(2)(c), 7(2)(h), 7(2)(k), 7(2) (m), 8(2), 8(3), 8(5), 8(6), 8(10), 9(1), 9(2), 9(3) and 13 are not complete. After verification, lack of facility of simulator and induction training, operation of app without aggregator license, all submitted undertaking without official signature and stamp, lack of sufficient experience of vehicle drivers, registration of two-wheelers not in transport category, etc. have been found incomplete. Also among the documents submitted are insurance certificate, fitness certificate, license, pollution control certificate, etc. for some vehicles. Legal documents are not attached (Please see Table No. 1 on Page No. 5). Also in the state of Maharashtra, no such scheme / scheme of bike taxi has been implemented by the government or the state transport authority. Also, the bike taxi type of license / license is not issued. Also, there is no fare structure policy for bike taxis.

Therefore, for the above reasons the regional transport authority decided to reject Roppen's two-wheeler bike taxi application. The said decision should be informed to the Applicant (M/s. Roppen Transportation Services Pvt. Ltd.)

According to Sections 89, 90 of the Motor Vehicle Act, 1988 and Rule 97 of the Maharashtra Motor Vehicle Rules, 1989, an appeal can be submitted to the State Transport Appellate Tribunal, Mumbai (The State Transport Appellate Tribunal) within 30 days.

2. **Three Wheeler Taxi Aggregator License :** Applicant M/s Ropan Transportation Services Pvt. Ltd. His application dated 30/11/2022 for obtaining three wheeler taxi aggregator license important points in Motor Vehicle Aggregator Rules 2020 viz point No. 4 (3), 5 (1), 5 (2), 5 (3), 7 (1) (b), 7 (1) (c), 7 (1) (d), 7 (1) (e), 7 (1) (f), 7 (1) (g), 7 (1) (b), 7 (2) (3), 7 (2) (b), 7 (2) (c), 7 (2) (h), 7 (2) (k), 7 (2) (m), 8 (2), 8 (3), 8 (5), 8 (6), 8 (10), 9 (1), 9 (2), 9 (3) and 13 are not perfect. Absence of simulator and induction training facility after application verification, App running without activator license, All submitted undertaking without official signature and stamp, Insufficient experience of drivers, No GPS system in vehicles, approved by Regional Transport Authority, Pune Information not provided as per fare basis, etc. imperfections have been found. Also, in the documents submitted, some legal documents such as insurance certificate, vehicle license, fitness certificate, license, public transport service badge, pollution control certificate, etc. are not attached. (Please refer Table No. 2 on Page No. 9)

The Regional Transport Authority decided to reject Roppen's three-wheeler taxi application. The said decision should be informed to the Applicant (M/s. Roppen Transportation Services Pvt. Ltd.)

According to Sections 89, 90 of the Motor Vehicle Act, 1988 and Rule 97 of the Maharashtra Motor Vehicle Rules, 1989, an appeal can be submitted to the State Transport Appellate Tribunal, Mumbai (The State Transport Appellate Tribunal) within 30 days.

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3. **Aggregate License Fee and Security Deposit refund:** According to decisions 1 and 2, the total licence fee paid by Roppen for the aggregator's license is Rs. 5,00,000/-, and the security deposit by way of bank guarantee in favour of the competent authority is Rs. 1,00,000/- via, DD No. 060140 dated 20/12/2022, to be processed for a refund to Roppen.

Sd/-	Sd/-	Sd/-
Member Secretary,	Member Secretary	Member Secretary
Regional Transport	Regional Transport	Regional Transport
Authority, Pune and	Authority, Pune and	Authority, Pune and
Deputy Regional Transport	Deputy Regional Transport	Regional Transport Officer,
Officer,	Officer,	Pune
Baramati	Pimpri - Chinchwad	

Sd/-	Sd/-
Members,	President
Regional Transport Authority, Pune and	Regional Transport Authority, Pune and
Deputy Commissioner of Police, Traffic,	District Collector, Pune.
Pune	