**Delhi**

**Supreme Court Order on Issuing Permits to E Auto Rickshaws in Delhi: Key Takeaways**

On 15th December 2021, the Supreme Court dismissed the application filed by Bajaj Auto Limited seeking declaration that the advertisement of the Govt. of NCT of Delhi dated 18.10.2021, calling for application for new TSR permits exclusively for e-autos is ultra vires to Articles 14 and 19(1)(g) of the Constitution of India.

**The context**

The NCT of Delhi Government launched online registration for e-auto permits through a notification dated 18th October 2021. In the first phase, 4,261 e-auto permits, including 1,406 for women applicants to be issued.

**Bajaj Auto’s Plea**

* Bajaj Auto which claims to be the world’s largest manufacturer of three-wheelers with the market share of about 68 per cent in the segment in India, filed a plea in the Supreme court against this notification for the exclusion of other clean technologies including CNG. The plea claimed this notification as arbitrary and violates Article 14, i.e., equality before law and article 19(1)(g) i.e.  to practise any profession, or to carry on any occupation, trade, or business.
* It sought for quashing the notification and argued that the Delhi government’s decision is arbitrary and discriminatory to manufacturers of existing clean fuel/CNG TSRs. It wanted that a direction to the Delhi Government to be issued by the court that no permits to be issued to the e-autos without considering CNG autos and giving chance to the interested applicants to choose their desired technology.
* In its application, Bajaj Auto said that while the government may have the prerogative to give an impetus or select benefits to any technology (as a matter of executive policy), such impetus cannot come at the cost of totally shutting out other legally compliant existing technologies, i.e., CNG.
* Suddenly excluding such technology overnight, by diverting all existing available permits for new TSRs to electric autos only, is irrational and arbitrary.
* According to the plea, this notification is tantamount to an indirect ban on new CNG TSRs, and also tantamount to restricting market opportunities to one class of vehicles over another, without rational basis or intelligible differentia
* Bajaj Auto is arguing that issuing permits to e-autos are crowding out space for CNG autos as Supreme court has fixed the upper limit of 1 lakh permits for vehicles plying on Delhi’s roads and Government of India has removed the requirements of permits for e-autos with the amendment to section 66 of Motor Vehicle Act.

**Delhi Government’s Response**

* The Delhi Government clarified that the advertisement did not seek to issue permits, but the payment for fee for registration and renewal.
* It further submitted that the decisions taken by the Govt. of NCT of Delhi were in consonance with FAME II Scheme of the Government of India; Delhi Government's Electric Vehicle Policy (EVP), 2020 and the latest advisories and reports on the issue of air Pollution.

**Decision by the Supreme Court**

* On hearing the parties and perusing their affidavits, a bench comprising Justices L. Nageshwar Rao, B.R. Gavai and B.V. Nagarathna concluded that the said advertisement cannot be said to be arbitrary.
* The reason given by the court is:
* The decision is in conformity with FAME II scheme of GOI and EVP 2020.
* Residents of Delhi are badly affected with air pollution, undoubtedly a part of which is caused; is attributed to vehicles. Even though CNG autos are BS6 compliant still there is some carbon emission.
* The court did not agree that the fundamental right of the applicant, especially A.14 and A. 19(1)(g) is violated. There are 92000 CNG is on the road, replacement of old vehicles can be done by vehicles manufactured by the applicant, i.e., Bajaj Auto
* The amendment to the MV Act and Central Motor Vehicle Rules cannot mean the addition of e-autos on the road can be done over and above the 1 lakh autos.

**Conclusion**

* While the Delhi Government is trying to promote clean fuel to improve air quality in the city, Bajaj Auto sees this an obstacle to promote the CNG autos in which it has market leader’s position.
* Although the Delhi Government has clarified that this is only for registration of e-autos, it is not in favour of counting it beyond 1 lakh cap of vehicles on the roads of Delhi because congestion on the roads of Delhi is equally bad as air pollution.