

W.P.Nos.16037 of 2020, 31002 of 2019, 3456 and 3300 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.Nos.16037 of 2020, 31002 of 2019, 3456 and 3300 of 2021

W.P.No.16037 of 2020:

L.D.Lenin Paul

.. Petitioner

Vs

- 1 The Principal Secretary /
Transport Commissioner
Transport Commissionerate and
State Transport Authority
Secretariat, Fort St George
Chennai- 600 009.
- 2 Additional Chief Secretary to Government
Transport Commissionerate and
State Transport Authority
Government of Tamil Nadu
Secretariat, Fort St George
Chennai- 600 009.
- 3 The Commissioner of Police
No.132, Commissioner Office
Building KVK Sampath Road, Vepery
Periyamet, Chennai- 600 007.

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- 4 The Insurance Regulatory and
Development Authority of India
Sy No. 115/1, Financial District
Nanakramguda, Gachibowli
Hyderabad- 500 032.
 - 5 The Bar Council of Tamil Nadu and Pondicherry
Gate Number 4, High Court Campus
Chennai 600 104.
 - 6 The Tamil Nadu Pollution Control Board
76, Mount Salai, Guindy
Chennai- 600 032.
 - 7 The Chief Secretary to the Government
of Tamil Nadu,
Secretariat, Fort St. George,
Chennai – 9. .. Respondents
- (Respondent No.7 impleaded as per the
order dated 10.11.2020)

W.P.No.31002 of 2019:

A.Rajesh

.. Petitioner

Vs

- 1 Union of India
Rep. by its Secretary
Ministry of Road Transport and
Highways Bhawan-1, Parliament Street
New Delhi - 110 001.
- 2 The Chief Secretary State
of Tamil Nadu Fort St.
George, Chennai.

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- 3 The State of Tamil Nadu
Rep. by the Principal Secretary to
Government Department of Transport
State of Tamil Nadu
Fort St. George, Chennai.
- 4 The Secretary to State
Home Department
Fort St. George, Chennai.
- 5 The Transport Commissioner
Transport Department
Ezhilagam, Chepauk
Chennai - 600 005. .. Respondents

W.P.No.3456 of 2021:

Safety Guards and Others Auto
Accessories Manufactures and Distributors Welfare
Association, rep. by its Secretary S.Ranjith Karthik No.75, ATT
Colony,
Coimbatore-18. .. Petitioner

Vs

- 1 The Union of India
Rep by its Secretary to Government
Ministry of Road Transport and
Highways New Delhi.
- 2 State of Tamil Nadu
Rep. by its Chief Secretary to Government
Public (Motor Vehicles)Department
Secretariat, Chennai-600 009.
- 3 The Transport Commissioner
Transport Department
Secretariat, Chennai-600 009. .. Respondents

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W.P.No.3300 of 2021:

Goldsun Auto Private Limited
Having its registered office at
No.12, Avarampalayam Road
Ganapathy, Coimbatore,
Tamil Nadu 641 006
Represented by its Managing Director
G.Ramachandran.

.. Petitioner

Vs

- 1 The Director
Union of India
Ministry of Road Transport and
Highways Transport Bhawan
Parliament Street
Delhi 110 001.
 - 2 The Chief Secretary / Transport Commissioner
Transport Commissionerate and State Transport
Authority Government of Tamil Nadu,
Public (Motor Vehicles)
Department Secretariat, Fort St.
George, Chennai – 600 009.
 3. The Transport Commissioner
Chepauk, Chennai 600 005.
 - 4 The International Centre for Automotive Technology A
Division of NATRIP Implementation Society
of the Government of
India IMT – MANESAR, Gurugram
Haryana 122 050.
- .. Respondents

Prayer: W.P.No.16037 of 2020 filed under Article 226 of the
Constitution of India seeking issuance of a writ of mandamus directing

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forbearing the respondents and direct the respondents 1-3 to take all/any necessary steps as mentioned above in Para A-G.

W.P.No.31002 of 2019 filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the Respondents 2 to 5 to initiate stringent action forbearing unauthorized fitment and installation of the Crash guards/Bullbars in any Motor Vehicles within the State of Tamil Nadu in view of the Notification issued by the 1st Respondent in No. RT-11021/38/2017-MVL dated 07.12.2017 considering the Petitioner Representation dated 28.08.2019.

W.P.No.3456 of 2021 filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the impugned orders made in RT-11021/38/2017-MVL dated 7.12.2017 and letter No.38848/MV/2020-1 dated 26.12.2020 passed by the respondents 1 and 2 respectively, quash the same and consequently forbear the respondents from in any way interfering with the fitment of safety guards such as bull bars/crash guards in the motor vehicles.

W.P.No.3300 of 2021 filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the Letter No. RT- 11021/38/2017 -MVL dated 7th December 2017 issued by the Respondent No.1, Letter No. Lr.R.No.41148/HB2/2019 dated 29th November 2019 issued by the

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3rd Respondent and Letter No.38848/MV/2020-1 dated 26th December 2020 issued by Respondent No.2 quash the same and consequently direct the Respondent 1 to 4 to issue appropriate directions clarifying the true legal scenario with respect to safety guards (commonly known as Bill bars/Crash Guards) thereby forbearing from taking any action against owners/drivers of vehicles fitted with safety guards (commonly known as bull bars/crash guards).

For the Petitioner : Mr.Ajay Francis Inigo Loyola
[W.P.No.16037/2020]

: J.Ashok
[W.P.No.31002/2019]

: Mr.N.Manokaran
[W.P.No.3456/2021]

: AR.L.Sundaresan
Senior Advocate
for M/s.AL. Ganthimathi
[W.P.No.3300/2021]

For the Respondents : W.P.No.16037 of 2020:

Mr.C.Harsha Raj
Counsel for the State
for Respondent Nos.1 to 3
and 7

Mr.Hajamohideen Gisthi
for Respondent No.5

R4 & R6 – No Appearance

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W.P.No.31002 of 2019:

Mr.C.Harsha Raj
Counsel for the State
for Respondent Nos.2 to 5

R1 – No Appearance

W.P.No.3456 of 2021:

Mr.C.Harsha Raj
Counsel for the State
for Respondent Nos.2 and 3

R1 – No Appearance

W.P.No.3300 of 2021:

Mr.C.Harsha Raj
Counsel for the State
for Respondent Nos.2 and 3

R1 – No Appearance

COMMON ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

There are four petitions in all, including two by manufacturers of automobile accessories. The manufacturers challenge a notification dated December 7, 2017 issued by the Union Ministry of Road Transport and Highways and the consequential acceptance and

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implementation thereof by the State by its letter of December 26, 2020 issued by the Chief Secretary.

2. The matter pertains to the use of crash guards or bull bar in motor vehicles. There are several vehicles which do not come factory fitted with additional guards in front of the engine, but which are subsequently fitted to protect the impact of any frontal crash on the engine. By the impugned notification of December 7, 2017, the Union of India, advised all States and Union Territories to ensure that the crash guards were not permitted as, according to the Union, it was in contravention of Section 52 of the Motor Vehicles Act, 1988, which attracted penalty under Sections 190 and 191 thereof.

3. Section 52(1) of the Act prohibits the owner of a motor vehicle from altering the vehicle such that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer. The Second Proviso to such provision recognises the authority of the Central Government to prescribe specifications, conditions for approval, retrofitment and other related

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matters for the alteration of motor vehicles. The Explanation, at the foot of the Section, indicates that alteration would imply a change in the structure of the vehicle which results in a change in its basic feature.

4. It is this that the petitioning manufacturers use as their sword to attack the shield that they manufacture in the form of crash guards to lend additional protection to motor vehicles. The major plank of the attack is that there is no basis to the relevant notification, nor is it evident that any empirical study has been conducted to ascertain the perceived ill-effects of crash guards. The petitioners in the two petitions filed in public interest, however, submit that vehicles armed with heavy duty crash guards encourage the drivers to indulge in wanton rash driving. These petitioners suggest that a driver of the car without a crash guard remains wary that any frontal collision may result in physical damage to the driver, but drivers in cars fitted with crash guards have the additional confidence that they may be protected as the engine may not crumble and this would encourage irresponsible conduct, including speeding.

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5. To the extent that crash guards add to the length of the car or, as the manufacturers suggest, provide greater security to the front of a car and, thereby alter the basic features of a motor vehicle, there appears to be sufficient basis in the issuance of the impugned notification of December 7, 2017. At the end of the day, it appears that public interest may have impelled the Central Government to issue the notice and, on a matter of policy where the Central Government perceives that a thing is necessary in public interest, the court would not willy-nilly intervene unless it finds the policy to be absurd or objectionable to the meanest mind.

6. It may also do well to take judicial notice of the larger, higher private passenger vehicles that are fitted with crash guards and behave as bullies on roads, particularly on the highways.

7. It is also recorded that the State Government's stand is that it has accepted the Union's instructions and has enforced the prohibition in such regard in the State. It is hoped that the enforcement is across the board and that the so-called important persons are not exempted from the rule.

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8. The other aspects canvassed in W.P.No.16037 of 2020 have not been dealt with herein and any future petition in such regard may be instituted, if the petitioners are so advised. However, this order will not prevent any representation made by the manufacturers of crash guards to the Union for such representation to be considered in the proper perspective, if the material used for the manufacture of the crash guards is indicated in the representation.

9. W.P.Nos.16037 of 2020, 31002 of 2019, 3456 and 3300 of 2021 are disposed of. W.M.P.Nos.19957 of 2020, 3960, 3755, 3756, 3956 and 3959 of 2021 are closed. There will be no order as to costs.

(S.B., CJ.) (P.D.A., J.)
21.09.2021

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सत्यमेव जयते
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To:

- 1 The Principal Secretary /
Transport Commissioner
Transport Commissionerate and State Transport
Authority Secretariat, Fort St George, Chennai- 600 009.
- 2 The Additional Chief Secretary to
Government Transport Commissionerate and
State Transport Authority
Government of Tamil Nadu
Secretariat, Fort St George, Chennai- 600 009.
- 3 The Commissioner of Police
No.132, Commissioner Office Building
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- 6 The Chief Secretary to the Government of Tamil
Nadu, Secretariat, Fort St. George, Chennai – 9.
- 7 The Secretary to State
Home Department, Fort St. George, Chennai.
- 8 The Secretary
Union of India
Ministry of Road Transport and Highways Bhawan-
1, Parliament Street, New Delhi - 110 001.
- 9 The Director
Union of India
Ministry of Road Transport and
Highways Transport Bhawan, Parliament
Street Delhi 110 001.

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THE HON'BLE CHIEF JUSTICE
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P.D.AUDIKEVALU, J.

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