

1



IN THE HIGH COURT OF JUDICATURE AT MUMBAI

ORDINARY ORIGINAL JURISDICTION

[RULE 4(e) (i) OF THE BOMBAY HIGH COURT PUBLIC INTEREST LITIGATION RULES, 2010]

PUBLIC INTEREST LITIGATION (PIL) PETITION NO. 49775 OF 2020



In the matter of Public Interest Writ Petition.

And

In the matter of Article 226 and 227 of the Constitution of India.

And

In the matter of Article 14 and 19 of the Constitution of India.

And

In the matter of the Motor Vehicles Acts

And

In the matter of the Motor Vehicle Aggregators Guidelines-2020

84

(2)

Savina R. Crasto )  
Advocate High Court, )  
1/15C, Wellington Terraces, 2<sup>nd</sup> Floor, Dr. Simon )  
Fernandes Marg, Mumbai – 400002. ) ..... Petitioner

Vs.

1. The Union of India through )  
The Secretary. )  
2. The State of Maharashtra through )  
The Chief Secretary )  
Mantralaya, Mumbai. )  
3. Uber India Technology Private Limited )  
31, 3rd Floor Anandvan BLK- A/6 )  
Paschim Vihar, New Delhi, )  
West Delhi, DL 110063. )  
..... Respondents

TO,

THE HON'BLE CHIEF JUSTICE AND  
THE HON'BLE PUISNE JUDGES OF THIS  
HON'BLE HIGH COURT AT BOMBAY

THE HUMBLE PETITION OF THE  
PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHEWETH:

1. This Petitioner is an Advocate of the Bombay High Court and a frequent user of the vehicle services provided by Respondent No. 3.

*St*

2. The Respondent No. 1 is the Union of India and the Respondent No. 2 is the State of Maharashtra. The Respondent No. 3 is a Transportation Aggregator launched in India 2013 under the name **Uber Technologies, Inc.** also known as "Uber" and are a MNC offering vehicles on hire. The said Company also determines the terms on which independent drivers are allocated to customers and the prices are charged to them, including the share earned by the driver and this service is accessed via a mobile app.
3. The Petitioner is constrained to approach this Hon'ble Court invoking its extraordinary writ jurisdiction of the Hon'ble Court in public interest, as there is apparent arbitrary restriction created by Respondent No.3 which affects the right its customers on raising their grievances and being heard in fair manner and inaction on the part of Respondent Nos. 1 & 2 to issue a direction to Respondent No.3 to add its complete details on the Mobile app (which is the only way of availing services of Respondent No.3) with no embargo on the length of a complaint as also issue a direction to the Company to resolve the customers' grievances in time bound manner.
4. Before approaching this Hon'ble Court, the Petitioner had approached Respondent No.3 with her grievances, which although were very serious in nature but since they are on a personal level, the Petitioner is not raising her grievances in detail before this Hon'ble Court but reserves her right to pursue it before appropriate forum/concerned authorities. However, what has constrained the Petitioner to approach this Hon'ble Court is that fact that there is no mechanism/system in place to resolve the grievances of customers/riders in Respondent No.3 Company, which is a Transportation Aggregator, launched in 2013 under the name **Uber Technologies, Inc.** popularly identified as "Uber" and are a MNC offering vehicles on hire.
5. The Petitioner states that Respondent No.3 which has worldwide presence does not treat the citizens of this country at par with the others in developed nations and care less about them and it can be ascertained from

(2)

the fact that Respondent No.3 has guarded its details in such manner that completely leaves its customers exhausted and makes them feel helpless while raising their grievances against the company, its services or its drivers.

6. The Petitioner states that Respondent No.3 is working in a manner which is against the rights of public at large to raise their grievances and/or lodge their complaints freely without any embargo. That apart, there is no transparency in the approach of the Respondent No.3 towards its customers/riders when it comes to resolving grievances and/or complaints of the customers/riders. The Petitioner, therefore, submits that unless Respondent No.3 allows the public at large to lodge their grievances and/or lodge their complaints freely without any embargo, the public at large would be at the mercy of Respondent No.3 and would be deprived of their right to be heard.

7. The Petitioner is an advocate by profession, practicing in various Courts at Mumbai and suburbs and is residing at the address mentioned in the clause title. The Petitioner has filed this Petition in person. The present Petition is being filed by way of Public Interest Litigation and the Petitioner does not have any personal interest in the matter as the issue concerns right of raising grievances and having fair resolution of grievance of all the customers/riders of Respondent No.3. Therefore, the Petitioner is filing this Petition in the larger interest of justice.

8. The Petitioner states that the Petitioner would be appearing in person and understands that in the course of hearing this Petition, the Hon'ble Court may require any security to be furnished towards costs or any other charges and the Petitioner shall comply with such requirements, if such occasion arises. To the best of her knowledge and research, the Petitioner states that the issues raised in this Petition have not been dealt with or

21

decided by this Hon'ble Court and neither a similar or identical Petition was filed by her earlier.

9. The Petitioner, to support her contentions, places on record the following facts which compelled the Petitioner to file this Petition as a Public Interest Litigation.

- (i) The Petitioner is a frequent user of the vehicle services provided by Respondent No.3.
- (ii) On 01.11.2020 at around 19:56 hours, the Petitioner had booked a cab from Mulund to Dhobitalao as she had scheduled a meeting at her residence at 9pm. The estimated fare that was shown to her was Rs. 372/-. Accordingly, she had booked the same. However, when driver for reasons best known to him couldn't confirm the trip and the trip was cancelled. Due to this the Petitioner had to once again check for another cab and the estimated fare was Rs. 400/-. Though the fare was more than the earlier one the Petitioner booked the same as she had to be home early since clients were waiting for her.
- (iii) Initially Respondent No.3's driver's speed was fine, but later he started to rush the car not only in high speed but he also bumped the car several times into pot holes thereby causing inconvenience to the Petitioner who is having issues in her spine.
- (iv) The Petitioner told the Driver twice to drive slowly but he didn't pay any heed to her requests. At about 8:45 pm, the car reached Chembur and just before the Indian Oil Petrol Pump at a shady dark place the car suddenly stopped. The Driver got off and began to check the car. After opening the bonnet, the Driver told the Petitioner that the fuse of the car had blown off which would take some time to repair. He told the Petitioner to end the trip and wait for another cab. The Petitioner was afraid with the way things were going on so she immediately booked another cab.

At

6

(v) Although the Petitioner was nowhere responsible, the Driver, ending the trip told the Petitioner that the amount which she was required to pay was Rs. 191/-. Being isolated and stuck in the middle of the road, the Petitioner had no alternative but to pay him and to start checking for cabs from the Uber app so that she gets out of the scary situation then.

(vi) For some time the Respondent No.3's app didn't allow the Petitioner to book a cab and it kept on popping the same message *"Trip cancelled - Unfortunately, your request couldn't be completed. Please try again and we'll have you moving shortly."* Ultimately the Petitioner restarted the phone and it was only then that she could search for another cab and the fare was Rs. 235/-. By this time it was already 9:20 p.m. and she reached home only post 10 p.m.

(vii) As a result of this fiasco, the Petitioner was unable to reach her residence in time for the meeting due to which the meeting was called off. Besides inflated fare and cancellation charge for no fault of the Petitioner, this entire trip caused not only a mental trauma wherein the Petitioner was in a helpless situation with mannerless drivers who were making the Petitioner feel uncomfortable.

(viii) Thereafter, on 04.11.2020, the Petitioner had again booked a cab from the app for her parents from Dhobitalao to Vasai. The estimated fare was Rs. 796/- and accordingly she booked the same. The Petitioner's parents were near Gol Masjid waiting for the cab. The Petitioner received a call from the driver and the Petitioner told him that she was at the location. However, the Driver cut the phone and when the Petitioner tried to call him back, his phone didn't get through, next thing that the Petitioner received on her phone was a message *"Trip cancelled - Unfortunately, your request couldn't*

be completed. Please try again and we'll have you moving shortly." Again having no alternative the Petitioner had to book another cab at a higher fare of Rs. 819/-. When the Petitioner's parents reached the drop-off location they were told to pay a fare of Rs. 962/- which is extremely higher than the estimated fare.

(ix) The Petitioner disputed both the high fare as well as her cancellation fare on the app but the Respondent No.3's app is designed in a manner wherein it just says *"We'll connect another time. To compensate drivers for the inconvenience, a fee is charged if the driver has to cancel after waiting for more than 5 minutes at your requested pick-up location. To avoid this fee in the future, only request when you're ready to go."*

(x) The Petitioner felt that Respondent No.3's drivers were doing it on purpose and thus she decided to bring these facts to the notice of Respondent No.3 as she is not the only consumer of Respondent No.3's services who has faced such difficulties.

INDIAN LEGAL NEWS

(xi) The Petitioner thus expected that Respondent No.3 realizes that it is duty bound to not only ensure that such incidents or any unpleasant incidents do not take place when its services are availed by the public at large but also to place on record the satisfactory reasons for the unpleasant incidents. In these circumstances, the Petitioner tried to address a letter to Respondent No.3 since the application of Respondent No.3 does not give option to its customers to lodge their grievances, protest and/or complaint.

(xii) To the utmost surprise of the Petitioner, the Petitioner learnt that not only Respondent No.3's application does not permit the customers/riders to raise their grievances, protest and/or complaint but even Respondent No.3's details are also not easily available

st

8

The details which are available on the government site also appear to be incorrect as the letter addressed to Respondent No.3 on the mail address on the government site is returned as not correct.

(xiii) In this background, the Petitioner was constrained to address another letter to Respondent No.1 as there is hardly any means to raise any grievances that any customers have against Respondent No.3 and/or drivers operating under the Company's instruction through its online application. Although, the letters addressed by the Petitioner to Respondent No.3 was specific to her grievance what emanated out of it required to be brought to the notice of Respondent No.1 as Respondent No.3 has kept its details guarded in such a way that it is extremely difficult for its customers to reach the Company with their grievances. There is hardly any detail of Respondent No.3 on which the customers can lodge their complaint/s or protest either against the Company and/or drivers operating under the Company's instruction through its online application.

INDIAN LEGAL NEWS

(xiv) The Petitioner states that the address or E-mail Id of Respondent No.3 is hardly traceable on the application on which customers can reach the Company with their grievances.

(xv) With great difficulty, the Petitioner could get the full name of the Company and details such as address and Email from the Government records but even those also appear to be incorrect or not updated. The Petitioner genuinely contends that it is done deliberately to exhaust the customers to give up their grievances against the Company. Copy of the correspondences and other relevant documents are hereto annexed and marked as Exhibit 'A Colly'.

81



- (xvi) The Petitioner states that as an app-based ride-hailing operator, Uber is required to comply with statutory obligation and bound by the terms and conditions mentioned in the Advisory for licensing, Compliance and liability of On-demand Information Technology based Transportation Aggregator [Taxis (4+1)] operating within the jurisdiction of India.

Point No. 8.2 of the said terms and conditions, reads as follows:

"The rider must be facilitated either via the web or on a mobile app or through a customer service telephone number and an email address to submit their grievances or difficulties faced during travel."

pg-33

A copy of the Advisory for licensing, Compliance and liability of On-demand Information Technology based Transportation Aggregator [Taxis (4+1)] operating within the jurisdiction of India is annexed as Exhibit 'B' hereto.

- (xvii) The Petitioner states that as per the aforesaid condition, Respondent No.3 is required to provide a customer service email address to the rider to enable the rider to place before it its grievances. Moreover, Respondent No.3 is also required to specifically assign a Grievance Officer for addressing complaints. However, in contravention of the said condition, Respondent No.3 has provided an email address which directs a customer to seek help through the app. Even there as well, there is no mechanism in the app to mention the grievance in detail and the app only provides the customer with a list of options which are chalked out by Respondent No.3 and the customers have no choice but to select only the available options. This takes away the right of customers/riders to raise their grievances as also the right to be heard. The Petitioner states that unless customers/riders get a fair chance to raise their grievances easily how will they even come to know if Respondent No.3 is

St

indeed serious to resolve their grievances. Only after the customer  
/riders are allowed to fairly raise their grievances and Respondent  
No.3's response thereto, there would be clarity if the grievances  
raised are worth of judicial determination if and when the same  
reaches the courts.

(xviii) The Petitioner states that she has even raised these issues before Respondent No.1 and 2 and apprised them about the failure on the part of Respondent No.3 to set up simple mechanism to address the grievances of the general public. However, nothing has happened till date. A copy of the email addressed to Respondent Nos.1 and 2 is annexed as Exhibit 'C' hereto.

10. The said Company also determines the terms on which independent drivers are allocated to customers and the prices are charged to them, including the share earned by the driver and this service is accessed via a mobile app.

11. The Petitioner submits that every person has a right to get redressed of his/her grievances and therefore depriving them of this valuable right tantamount to unlawfully curbing their right to raise their grievances and being heard in fair manner by using opaque system. The Petitioner submits that our country being the second most populous nation of the world, it is crucial to have the proper system for the benefits of people, who are victims of such situations. There is no reason for Respondent No.3 to keep its mechanism complex and guarded on which Respondent No.1 and 2 have done nothing despite being made aware of.

12. The Petitioner further states that the recent Motor Vehicle Aggregators Guidelines-2020 in Point No. (12)<sup>9</sup> clearly provides for the following:

*"Establishing call centres with valid telephone number and operational email address displayed clearly on the App with 24x7 operations wherein assistance shall be provided to the Rider and/or the Driver in English*

81

*and Hindi as the primary languages, for both the Driver and the Rider along with the option of an official language of the relevant state."*

Copy of the Motor Vehicle Aggregators Guidelines-2020 is hereto annexed and marked Exhibit 'D'

13. The Petitioner submits that act of Respondent No.3 is such that it indirectly curtails the justice system. The Respondent authorities cannot act in such an immune manner without being considerate towards the issues faced by many people on day to day basis. Unfortunately, Respondent No.3 does not feel the need to even feel that the citizens have a right to properly complain or raise their genuine grievances. This is arbitrary and discriminatory.

14. The Petitioner is a frequent user of the vehicle services provided by Respondent No.3 and she is espousing the cause of public at large, more particularly those who use online application to book vehicles to travel for their day-to-day needs.

15. The present petition being filed in public interest, the Petitioner is separately seeking the leave of the Honorable Court to grant her permission to file the present petition in public interest.

16. Apart from what is stated hereinabove, the Petitioner has no personal interest against Respondent No.3. The Petitioner's interest is common as that of any other user of Respondent No.3's app, who are aggrieved by the action of Respondent No.3. The Petitioner is bringing to the kind notice of the Hon'ble Court the grievances of public at large in the circumstances stated herein above and seeking the indulgence of the Hon'ble Court in the larger public interest.

17. The Petitioner further most respectfully submits that the Petitioner does not have any alternate remedy, much less, an efficacious one than to approach

et

12

this Hon'ble Court in the instant matter under Article 226 Constitution of India invoking its extraordinary writ jurisdiction.

18. The Petitioners herein further most respectfully submit that the Petitioner has not approached this Hon'ble Court or Hon'ble Supreme Court on the issues raised in this Petition.

19. The Petitioner is residing in the city of Mumbai. The cause of action which resulted in filing of the Petition has arisen in Mumbai. Hence, this Hon'ble Court has Jurisdiction to try and entertain the instant Petition.

20. The Petitioner has paid a fixed court fee of Rs. \_\_\_/- on the instant Petition.

21. The Petitioner states that there is no delay or laches in preferring this present Writ Petition under the Article 226 Constitution of India.

22. The Petitioner will rely upon documents, a list whereof is annexed hereto.

23. The Petitioner craves leave to alter, amend and modify the present petition as and when required.

24. The Petitioner herein further most respectfully submits that the Petitioner herein has not received a caveat notice in the instant matter from any of the Respondents till the date of the filing of the instant petition before this Hon'ble Court. Hence, this Petition.

25. In the circumstances mentioned hereinabove, the Petitioner most humbly prays that this Honorable Court may kindly be pleased to:

- a) By way of appropriate writ, order and direction, hold and declare that Respondent No.3 is required to comply with statutory obligations in its letter and spirit in the interest of public at large and bound by the terms and conditions mentioned in the Advisory for licensing, Compliance and liability of On-demand Information

24

Technology based Transportation Aggregator [Taxis (4+1)]  
operating within the jurisdiction of India;

- b) By way of appropriate writ, order and direction, direct the Respondent Nos. 1 and 2 to forthwith implement the guidelines laid down in the Motor Vehicle Aggregators Guidelines-2020 in the interest of the public at large;
- c) By the way of appropriate writ, order, direct Respondent No. 2 to issue a direction to the company to add its complete details on the Mobile app with no embargo on the length of a complaint as also issue a direction to the Company to resolve the customers' grievances in time bound manner;
- d) By way of appropriate writ, order and direction, hold and declare that the action of the Respondent Nos.3 in not maintaining correct disclosure is absolutely illegal and bad in law;
- e) Interim orders in terms of prayer clause (c) be granted.
- f) Pass any other orders as this Hon'ble Court deems fit in the interest of justice;

And for which act of kindness, the Petitioner shall remain duty bound and ever pray.

  
Petitioner

st