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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Date of Decision: 17<sup>th</sup> October, 2023.**

+ W.P.(C) 13713/2023 & CM APPL. 54170/2023

YUVRAJ FRANCIS

..... Petitioner

Through: Mr. Naman Joshi, Ms. Ritika Vohra,  
Advocates with Mr. Yuvraj Francis,  
Petitioner (in-Person).

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC with  
Mr. Tarveen Singh Nanda, G.P. for  
R-1.

Mr. Santosh Kumar, Mr. Aditya  
Ramni, Mr. Daksh Arora and Ms.  
Akshita Singh, Advocates for R-2.

Mr. Santosh Kr. Tripathi, SC (Civil),  
GNCTD with Mr. Arun Panwar, Ms.  
Prashansa Sharma, Mr. Rishabh  
Srivastava, Mr. Kartik Sharma and  
Mr. Pradyumn Rao, Advocates for R-  
3 & 4.

SI S. Rai, SI Ravinder Jangra, ASI  
Devender Singh, Parvi Officer,  
Traffic.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J. (Oral):**

1. Expressways, in the tapestry of modern infrastructural advancements,



are arteries of swift movement, designed to bridge distances with unprecedented speed. The inception of these roads was envisioned for swift-moving vehicles to alleviate traffic congestion and provide a faster, more efficient mode of transport. In the matter before us – a Public Interest Litigation (“**PIL**”) – we are tasked with addressing concerns over slow-moving vehicles plying on these expressways, which not only deviate from the expressway’s primary purpose but potentially jeopardize public safety. We are fully conscious that the management of traffic, including the enforcement of speed limits and vehicle types, traditionally resides with the executive, a realm rooted in their administrative and regulatory functions. However, the judiciary’s role is not to be minimized or eclipsed, especially when citizens invoke their right to a safer transit environment, a right intrinsically linked to the broader right to life and personal liberty. The documents presented to this Court signify the government’s earlier commitments: that expressways would cater primarily, if not exclusively, to high-speed traffic. Such a vision, while aligning with the very definition of “expressways,” also underscores the importance of maintaining their integrity, both, for safety and functional efficiency. Circumspect about overstepping into administrative functions, finding itself at a juncture where the significance of the issue, buttressed by the government’s own commitments, warrants judicial intervention, this Court treads with caution, wary of encroaching upon executive’s domain.

2. The genesis of this PIL can be traced back to Petitioner’s personal experiences, who has been commuting on the Delhi-Gurugram Expressway since 2011. This expressway forms a segment of the National Highway (NH)-48 (previously known as NH-8), linking the National Capital Territory



(NCT) of Delhi with Gurugram. Serving as a critical conduit, it facilitates the daily transit of over 200,000 vehicles. Over the years, the Petitioner has observed an alarming increase in the presence of slow-moving vehicles, which are prohibited from this high-speed thoroughfare. Such unauthorized vehicular movement has not only led to a multitude of accidents but has also resulted in considerable loss of life and property damage. Distressed by these occurrences, the Petitioner approached various authorities between 2022 and 2023. Representations were made to Respondent No. 2 [National Highways Authority of India (“NHAI”)], Respondent No. 3 [DCP (Traffic), South-West District, New Delhi], and Respondent No. 4 [DCP (Traffic), Sushant Lok, Phase-I, Gurugram, Haryana]. While these pleas were not entirely unheeded, the lack of substantive action in response to the concerns voiced compelled the Petitioner to resort to the present PIL.

3. Rooted in the background detailed above, the Petitioner advances the following contentions:

3.1. The NHAI, in its communication dated 12<sup>th</sup> October, 2022 addressed to the Petitioner, confirmed the prohibition of slow-moving vehicles on the Delhi-Gurugram Expressway. This response drew reference to a concession agreement between NHAI and Respondent No. 5 [Millennium City Expressways Pvt. Ltd.], detailing the maintenance stipulations for the expressway. As per this agreement, vehicles like tractors, animal-drawn carts, and two/three-wheelers are explicitly barred from using this expressway. Furthermore, NHAI conveyed its commitment to this prohibition in a letter dated 02<sup>nd</sup> September, 2022 addressed to Respondents No. 3 and 4, urging them to enforce the said restrictions. This communication, shared with the Petitioner, is annexed to the present



petition. Despite this, Respondents No. 3 and 4 have shown a noticeable lapse in upholding NHAI's directives.

3.2. Strengthening the argument against the presence of prohibited vehicles on the Delhi-Gurugram Expressway, is a notification dated 19<sup>th</sup> February, 2014 by Respondent No. 1 [Union of India]. This document, outlining toll rates for diverse vehicles, conspicuously excludes two-wheelers and three-wheelers—reinforcing their disallowed status on the expressway. It is pertinent to note that the Delhi-Gurugram Expressway is equipped with service lanes, providing an alternative route specifically designed for slow-moving vehicles.

3.3 Between the years 2017 and 2022, data furnished by NHAI reports a concerning 31 fatalities on the Delhi-Gurugram Expressway attributed to slow-moving vehicles. This timeframe also saw 137 grave accidents. Further illuminating the peril, Respondent No. 3 has provided specific figures concerning two-wheeler involved fatalities on the NH-8 during the same period, which is elucidated as follows:

Point No. 1 & 2\* :- Number of Road accidents by Two-wheelers (offending Vehicle) on NH-8 in last 5 Years (2017 to 2022 upto 15<sup>th</sup> December)

ROAD ACCIDENTS BY TWO-WHEELER ON NH-8*						
YEAR	NON-INJURY ACCIDENTS	SIMPLE ACCIDENTS	FATAL ACCIDENTS	TOTAL ACCIDENTS	PERSONS INJURED	PERSONS KILLED
2017	1	5	1	7	8	1
2018	0	0	1	1	1	1
2019	0	5		5	6	0
2020	0	3	2	5	3	2
2021	0	5	1	6	7	1
2022 UPTO 15 <sup>TH</sup> Dec.	0	0	1	1	1	1

3.4. While the focal point of the PIL revolves around the Delhi-Gurugram Expressway, it also emphasizes the purported laxity of authorities in enforcing the prohibition of slow-moving vehicles on other expressways.



Documented RTI responses from NHAI, annexed for reference, underscore the restrictions that have been instituted to prevent the entry of slow-moving vehicles on various expressways. Specifically, NHAI's communication from 22<sup>nd</sup> May, 2023 clarifies that such vehicles are not permitted on the Delhi-Meerut Expressway and the Eastern Peripheral Express, recognizing both as high-speed corridors designed for faster-moving traffic. While this particular response abstains from overtly stating the jurisdiction of NHAI over the Delhi-Gurugram section of the NH-8, an earlier communication from NHAI, dated 12<sup>th</sup> October 2022, categorically references this section as an "Expressway."

3.5 Furthermore, a press release from Respondent No. 1 dated 02<sup>nd</sup> December, 2021, corroborates the prohibition of two-wheelers on the Delhi-Meerut Expressway. This press release underscores that, as a matter of best industry practices and codified provisions, two-wheelers are barred from accessing controlled expressways. Such measures are foundational to ensuring the safety of two-wheeler users and other motorists alike.

3.6. Further substantiating the contention, the Petitioner cites the Model Concession Agreement issued by NHAI, which explicitly delineates that the concessionaire is prohibited from allowing the entry of local users, tractors, animal-driven vehicles, three-wheelers, and motorcycles onto the carriageway of a project highway. This clearly resonates with the intent and purpose of the expressways, which is to facilitate high-speed travel and ensure safety.

3.7 In addition to the aforementioned, the "Manual of Specifications and Standards for Expressways" published in November 2013 by the Indian Roads Congress underscores the norm that typically only fast-moving



vehicles are permitted to ply on expressways. This manual further consolidates the position being advocated for by the Petitioner.

3.8 Moreover, drawing attention to the broader landscape of road safety, the Petitioner makes reference to a report submitted by a committee constituted by Respondent No. 1. This committee was set up pursuant to an order dated 24<sup>th</sup> February 2012, passed by the High Court of Karnataka [M.F.A. No. 12034/05 (MV)]. The salient recommendations within this report emphasized that slow-moving vehicles ought to be restricted from operating on highways, especially when alternative service roads are available for their use, and ultimately, the creation of such alternative lanes would serve as a long-term measure. It was also stated that till such time, where possible, a separate lane should be earmarked on the left side of highways for slow moving vehicles. The said recommendations align with the overarching objective of ensuring the safety and well-being of all road users.

3.9 In view of the above, Petitioner seeks directions against Respondents for the failure to prevent slow-moving vehicles such as two/ three wheelers, tractors, etc. on the Delhi-Gurugram Expressway and other similar expressways by making following prayers:

*“A. Issue a writ, order or direction including a writ in the nature of mandamus directing the Respondent Nos. 1 - 4 to restrict the entry and movement of slow-moving traffic such as two wheelers/ three-wheelers, tractors and animal drawn vehicles from the main carriageway of Expressways in India in general and specifically on the Delhi – Gurugram Expressway.*

*B. Issue a writ, order or direction including a writ in the nature of mandamus directing the Respondent Nos. 1 - 4 to demarcate specific lanes for movement of slow-moving traffic such as two-wheelers/three-wheelers, tractors and animal drawn vehicles in case the said Respondents fail to*



*completely restrict the movement of slow-moving traffic on the main carriageway of the Expressway.*

*C. Pass any other Order(s) as this Hon'ble Court may deem fit in the given facts and circumstances of the present case."*

**Analysis and Directions:**

4. Having reviewed the documents and contentions placed before us, we unequivocally acknowledge the gravity and public significance of the issues presented in this PIL. In fact, the existing regulatory framework is well-equipped to address the concerns underscored in this PIL, a sentiment echoed by the Petitioner's counsel. Nonetheless, adherence to traffic norms and road regulations is not merely a matter of law, but a paramount necessity to safeguard every individual using our expressways and to facilitate unhindered vehicular flow. Given the accelerated pace at which vehicles traverse these expressways, any oversight or disregard for the prescribed regulations could culminate in tragic consequences, manifesting in casualties, physical harm, and extensive property damage. The inherent vulnerability of slow-moving vehicles, notably two-wheelers, three-wheelers, tractors, and the like, when juxtaposed against high-speed vehicles, further amplifies this risk. The disparity in the speed rating for different categories of vehicles complicates the ability of drivers to accurately gauge distances, presenting an additional hazard.

5. The communication issued by NHAI on 02<sup>nd</sup> September 2022 to Respondents No. 3 and No. 4 paints a revealing picture. It acknowledges the alarming frequency of accidents attributed to the ingress of slow-moving vehicles onto the expressway. The correspondence highlights that 19 entry and 22 exit points are being utilized by these vehicles to access the main



carriageway, despite the vigilance of traffic marshals stationed there. The letter also sheds light on the overriding challenge: despite preventive measures, the absence of rigorous enforcement enables these prohibited vehicles to brazenly venture onto the expressway. In light of these revelations, it is evident that NHAI has actively engaged with the relevant authorities, urging them to reinforce and implement the standing prohibitions.

6. It has not been disputed before us by anyone of the Respondents that subject to provisions of the regulations and agreements governing expressways, the entry of slow-moving vehicles, including but not limited to two-wheelers, three-wheelers, tractors, and animal-driven vehicles, is categorically prohibited on specific expressways developed as high-speed corridors. This prohibition is instituted primarily to ensure the safety of all road users and to maintain the operational efficiency and speed consistency on these expressways. The Delhi-Meerut Expressway and the Eastern Peripheral Express, for instance, have been designated as high-speed corridors where the movement of slow-moving vehicles is not permitted, as per NHAI's RTI response dated 22<sup>nd</sup> May 2023, relevant extract whereof is as under:

Sl. No.	Information Required	Desired Information
2.	Whether Entry of slow moving vehicles such as Two/Three wheelers, tractors, animal drawn vehicles are permitted to enter and travel on Expressways?	Delhi Meerut Expressway and Eastern Peripheral Expressway have been developed as a high speed corridor and the movement of high speed vehicles may pose risk to the safety of certain vehicles i.e. two wheelers, three wheelers and other slow moving vehicles like tractors etc. are not allowed as per the Gazette Notifications dated 15.01.2021 and dated 14.06.2018. Under Section 35 of "The Control of National Highways (Land and Traffic) Act, 2002" the slow moving vehicles are prohibited from using the DME & EPE.





7. NHAI's above response also provides substantial clarity on the regulations concerning the movement of slow-moving vehicles on particular expressways. The Delhi-Meerut Expressway and Eastern Peripheral Expressway have been constructed as high-speed corridors. It is explained that due to the inherent risks associated with the blend of high-speed vehicles and slow-moving ones, certain vehicles, including but not limited to two-wheelers, three-wheelers, tractors, and animal-drawn vehicles, are not allowed on these expressways. We note that these prohibitions are re-enforced by Gazette Notifications dated 15<sup>th</sup> January, 2021 and 14<sup>th</sup> June, 2018. As per Section 35 of the Control of National Highways (Land and Traffic) Act, 2002, the use of any highway or part thereof can be restricted for certain classes of vehicles by way notification in the Official Gazette. Although the Delhi-Gurugram section of the NH-8 is not mentioned in the above response, we note that it has been previously characterized as an "Expressway" in the communication dated 12<sup>th</sup> October 2022, extracted below:



PIU/DH-05/03/03/2022-23/ 4266  
To,

Date: 12-10-2022

Adv. Yuvraj Francis  
Sushant Estate  
T-3/202, Sec-52, Gurugram  
E-mail: yuvrajfrancis@gmail.com

Sub. Conversion of Delhi-Gurgaon section of NH-8 into Access Controlled 8/6 lane Highway from Km. 14.300 to Km. 42.000 on BOT basis;  
- Reg. Two Wheeler, Three Wheeler and slow moving motor vehicles and slow moving Non-Motor vehicles on the Delhi-Gurugram Expressway

Sir,

Please refer to your letter no. nil dated 29.09.2022 on the subject mentioned above.

2. In this connection, it is to inform that as per Concession Agreement made between Concessionaire and NHAI, "Slow vehicles such as Tractors, Animal drawn vehicles and Two/Three wheelers are not allowed on this Expressway." Moreover, in order to implement the above, NHAI has made various efforts with local administration through correspondence. A copy of letter no. 3765 dated 02.09.2022 addressed to DCP (Traffic) Gurugram and DCP (Traffic), South West Dist. New Delhi is enclosed herewith for your information and reference.

Encl: As above

Yours sincerely  
  
(Dhruv Gupta)  
Manager (Tech)  
For Project Director,  
PIU-Dwarka



8. It is therefore evident that the regulatory framework has clear provisions prohibiting slow-moving vehicles on designated expressways. The issue, as we have discerned from the information and discussions preceding, is more of enforcement and adherence rather than the absence of regulations. While regulations concerning the movement of slow-moving vehicles on expressways, such as the Delhi-Meerut Expressway, are in place, it is evident that there is a gap in their practical execution. NHAI's own acknowledgment underlines this enforcement lacuna. Consequently, effective enforcement mechanisms must be put in place by the authorities to ensure that the prescribed rules are followed, thus averting potential hazards and ensuring the safety of all road users.

9. Considering the above, the following directions are being issued: -

9.1. Respondent No. 3 is directed to ensure rigorous enforcement of existing prohibitions discussed above pertaining to the movement of slow-moving vehicles on expressways, especially within the territorial confines of the NCT of Delhi. Regular monitoring and prompt corrective actions should be taken where deviations from the prescribed norms are observed.

9.2. As regards, prayer clause (b) seeking the demarcation of specific lanes for slow-moving vehicles on expressways, we are of the opinion that such a proposition is laden with complexities. The process of setting aside dedicated lanes for such vehicles on expressways is not merely a matter of administrative decision-making but is deeply entrenched in policy considerations. Evaluating the implications of such an initiative necessitates an in-depth examination of multiple facets including feasibility, road safety implications, potential alternatives, and broader traffic management considerations. Given the multifaceted nature of this issue, it is a decision



best left to the discretion of the government and the relevant departments. They possess the required expertise, infrastructure, and ground knowledge to make informed decisions after thorough assessments. As a judicial body, we must refrain from delving into areas earmarked for executive and policy-making functions. The relevant government departments should exercise their discretion, underpinned by expert assessments, to determine the feasibility and safety implications of such initiatives.

10. The Court acknowledges the earnest efforts of the Petitioner in bringing to light an issue of immense public significance. Road safety is an area that demands unwavering attention, and collective efforts from both, the authorities and the public, are imperative for preserving and enhancing it. We hope that the directives laid down in this judgment will pave the way for safer expressways and roads, where every user, irrespective of their mode of transportation, can travel securely and efficiently. The onus now lies on the implementing agencies to translate these directions into concrete actions on the ground.

11. With the aforesaid directions, the petition is disposed of.

**SANJEEV NARULA, J**

**SATISH CHANDRA SHARMA, CJ**

**OCTOBER 17, 2023**

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