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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.130 OF 2022

'K' Savakash Auto Rickshaw Sangha
(A Public Trust Registered under the Maharashtra Trust Act, 1950 with Public Trust Registration Office, Pune Division)
Represented through its Trustee
Mr. Pradeep Shankar Bhalerao, Age - 62
Reg. office add : 502, Ganesh Peth, Kasturi Chowk, Pune - 411042 ….. Petitioner

Versus

1 Union of India,
Through Ministry of Road Transport and Highways, New Delhi

2 The Secretary,
Ministry of Road Transport, Maharashtra State, Mumbai - 400032

3 The Transport Commissioner,
State Transport Authority,
MTNL Building, Fountain 2 building,
5th Floor, M.G.Road, Fort,
Mumbai – 400001 ….. Respondents

WITH
WRIT PETITION NO.11380 OF 2017

Mumbai Bus Malak Sangathana
(Registered)
Through its Addl Secretary Koragappa Venkappa Shetty
Having it office Address at
M/s. Supreme Travels, Shop No.2,
Krushna Niwas, Pai Nagar, Rokadia Lane,
Boriwali (West),
Mumbai – 400092 ….. Petitioner

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Versus

1 Union of India,
Through Ministry of Road Transport and
Highways, Transport Bhavan,
New Delhi - 1

2 State of Maharashtra
Through its Secretary (Transport)
Mantralaya, Mumbai

3 The Transport Commissioner,
Maharashtra State,
Having its office at – new Administrative
Building, 4th Floor, Government Colony,
Bandra (East), Mumbai – 400051 ….. Respondents

Shri Vaibhav Kulkarni with Shri. Ruturaj Bathe and Ms. Mrunal Surana for the Petitioner in PIL/130/2022

Shri Suhas Deokar for the Petitioner in Writ Petition/11380/2017

Shri R. V. Govilkar, Senior Advocate with Shri D. P. Singh and Ms. Shaba Khan for Respondent No.1 – UoI in PIL/130/2022

Shri R. V. Govilkar, Senior Advocate with Ms. Shaba Khan for Respondent No.1 – UoI in WP/11380/2017

Shri P. P. Kakade, Government Pleader with Shri O. A. Chandurkar, Additional Government Pleader and Ms. R. A. Salunkhe, AGP for Respondents – State

CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.

RESERVED ON : JANUARY 24, 2024

PRONOUNCED ON : APRIL 2, 2024

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JUDGMENT (PER : CHIEF JUSTICE)

1. Heard learned counsel representing the respective parties.

BACKGROUND FACTS:

2. These two Petitions since raise common issues of law and facts, the same are being decided by the common judgment which follows:

3. By invoking our jurisdiction under Article 226 of the Constitution of India, challenge has been laid to the provisions contained in Rule 32 and Rule 81 of the Central Motor Vehicles Rules, 1989 (hereinafter referred to as the **"1989 Rules"**) to the extent these Rules provide for levy of additional fee in respect of renewal of driving license for which application is made after the grace period as also levy of additional fee for renewal of certificate of registration in respect of motor cycles and certain other classes of non-transport vehicles. Challenge is also made to charge of additional fee in case of delay in submission of "No Objection Certificate" for transfer of ownership of motorcycle and other vehicles and also to levy on delay in submitting "No Objection Certificate" for change of residence.

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4. Relevant portions of Rule 32 and Rule 81 of the 1989 Rules which have been impeached in these petitions as amended up to date, are as under:

> ***"32. Fees –*** *The fees which shall be charged under the provisions of this Chapter shall be as specified in the table below:*
>
> *Provided that the States may levy fee lower than the amount specified in the table and may also levy additional amounts to cover the cost of automation and technology utilised for conducting the testing or providing value added services.*
>
> ***TABLE***

Sr. No.	*Purpose*	*Amount*	*Rule*	*Section*
1	*2*	*3*	*4*	*5*
9.	*Renewal of a driving license for which application is made after one year from the date of expiry of driving license*	*Three hundred rupees* *Note – Additional fee at the rate of one thousand rupees for delay of each year or part thereof shall be levied after one year from the date of expiry of driving license*		

> ***"81. Fees –*** *The fees which shall be charged under the provisions of this Chapter shall be as specified in the Table below:*
>
> *Provided that the States may levy fee lower than the amount specified in the table and may also levy additional amounts to cover the cost of automation and technology utilised for conducting the testing or providing value added services.*
>
> *Provided further that, for the Battery Operated Vehicles as defined in clause (u) of rule 2, the items given at Serial number 4 of the below mentioned Table shall be exempted from the payment of fees for the purpose of issue or renewal of registration certificate and assignment of new registration mark:*
>
> *Provided further that, in case the vehicle is registered on submission of "Certificate of Deposit", the fee for issue of certificate of registration shall not be levied.*

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TABLE

Sl. No.	***Purpose***	***Amount***	***Rule***	***Section***
1	*2*	*3*	*4*	*5*
4(i)	*Any other vehicle not mentioned above:* *(1) …….* *(2) Renewal of registration* *Note 1 – Additional fee of two hundred rupees shall be levied if the certificate of registration is a smart card type issued or renewed in Form 23-A.* *Note 2 – In case of delay in applying for renewal of certificate of registration, an additional fee of three hundred rupees for delay of every month or part thereof in respect of motor cycles and five hundred rupees for delay of every month or part thereof in respect of other classes of non-transport vehicles shall be levied.*	*Six thousand rupees*		
6	*Transfer of ownership*	*Half of the fee mentioned against Serial No.4.* *Note – In case of delay in submission of "No Objection Certificate", an additional fee of rupees three hundred for delay of each month or part thereof in*	*55(2), (iii), 55(3),* *56(2)(a) and 57(1)(a)*	

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		case of motor cycles and five hundred rupees for each month of delay or part thereof for other vehicles shall be levied.		
7	*Change of residence*	*Half of the fee mentioned against Serial No.4.* *Note – In case of delay in submitting "No Objection Certificate", for change of residence, an additional fee of rupees three hundred for delay of each month or part thereof in case of motor cycles and five hundred rupees for each month of delay or part thereof for other*		

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		vehicles shall be levied.		

5. The impugned provision of Rule 32 of the Rules 1989 as quoted above provides for payment of additional fee @ Rs.1000/- for delay of each year or part thereof which shall be levied after one year from the date of expiry of driving license, for renewal of driving license for which application is made after one year from the date of its expiry.

Similarly, the impugned provision contained in Rule 81 of 1989 Rules provides for levy of additional fee of Rs.300/- for delay of every month or part thereof in respect of motor cycles and Rs.500 in respect of other classes of non-transport vehicles for seeking renewal of registration certificate. It also provides levy of additional fee of Rs.300/- for delay of each month or part thereof in case of delay in submission of "No Objection Certificate" for transfer of ownership of vehicle. The impugned provision also prescribes levy of an additional fee of Rs.300/- for delay of each month or part thereof in case of motor cycles and Rs.500/- each month of delay or part thereof for other vehicles if there is delay in submitting "No Objection Certificate" for change of residence.

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SUBMISSIONS BY THE PETITIONERS:

6. Questioning the impugned provisions of the 1989 Rules, it has been argued by the learned Counsel representing the Petitioners that 1989 Rules are delegated legislation and the same cannot travel beyond the scope of parent Act i.e. the Motor Vehicles Act, 1988 (hereinafter referred to as the **"parent Act"**). It has further been argued that Rule making power available in an Act does not enable the Rule making authority to make Rules which are inconsistent with the provisions of the Act itself. It is also the case pleaded on behalf of the Petitioners that the impugned provisions levying additional fee are, in fact, a penalty in the guise of fee and further that such additional fee is not leviable for the reason that no additional service in lieu thereof is provided by the Department.

7. On behalf of the Petitioners, it has empathetically been submitted that the parent Act does not permit levying of any additional fee and in absence of any such power available under the Act, the Rule making authority, by making the delegated legislation is, thus, not legally empowered to provide for levy of additional fee. The submission is that unless the parent Act under which the subordinate legislation is made specifically

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authorizes imposition of any fiscal liability, no such additional fee can be provided for by the Rules in case of any delay in making application for renewal of driving license or renewal of registration certificate or delay in submission of "No Objection Certificate" for change of residence or transfer of ownership of a vehicle. The sum and substance of the argument made by the learned counsel for the Petitioners is that the impugned provisions of the 1989 Rules are, thus, *ultra vires* of the parent Act i.e. the Motor Vehicles Act, 1988 and is also unsustainable as levy of fiscal liability in this case is nothing but imposition of penalty which the parent Act does not authorize. Learned Counsel for the Petitioners has also brought to our notice the judgment dated 3rd April 2017 passed by the Madras High Court in Writ Petition No.1598 of 2017 in the case of ***Qatalys Software Technologies Pvt. Ltd. And Ors. Vs. Union of India & Ors.***[1] wherein Madras High Court has declared Rule 32 and Rule 81 of the 1989 Rules to be void to the extent of imposition of additional fee and consequently struck down the said Rules to that extent. It has also been informed that though the judgment of the Madras High Court has been challenged by the Union of India before the Hon'ble Supreme Court by filing

1 ***2020 SCC OnLine Mad 28037***

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Special Leave Petition (Diary) No.22817 of 2017, however, no stay to the judgment of the Madras High Court has been granted.

8. On behalf of the Petitioners, reliance has been placed on the judgments in the case of ***Bimal Chandra Banerjee Vs. State of M.P.[2], Indian Carbon Ltd. Vs. Supdt. Of Taxes[3], Khemka & Co. (Agencies) (P) Ltd. Vs. State of Maharashtra[4]*** and ***ADM (Rev) Delhi Admn. Vs. Siri Ram[5].***

SUBMISSION ON BEHALF OF THE UNION OF INDIA:

9. Opposing the Petitions, Shri R. V. Govilkar, learned Senior Advocate representing the Union of India, has submitted that the Central Government as also the State Government are empowered to make Rules under Section 64 and 110 of the parent Act and further that the Central/State Government are also empowered to provide for levy of fee for doing various acts such as processing applications, issue of certificates, licenses, permits etc. for which the power is derived from Section 211 of the parent Act and accordingly, there is no illegality or infirmity

2 **AIR 1971 81 SC 517**
3 **AIR 1972 SC 154**
4 **(1975) 3 SCR 753**
5 **AIR 2000 SC 2143**

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in the impugned provisions of Rules 32 and 81 of the Rules 1989. It has also been argued on behalf of the Union of India that if Section 211 of the parent Act is construed appropriately, it will be clear that it authorizes levy of different fee or additional fee irrespective of there being any involvement of rendering extra service for renewal of license / registration certificate on applications or prayers made beyond the last date. According to learned Senior Advocate representing the Union of India, Section 211 itself authorizes levy of fee at different rates and hence for processing a prayer for renewal of license or renewal of certificate of registration beyond the time period prescribed for the said purpose, is valid. His submission is that since Section 211 authorizes levy of additional fee if construed in its true perspective and hence such levy cannot be termed to be penalty either directly or in disguise.

10. Relying on a judgment of the Hon'ble Supreme Court in the case of ***Jalkal Vibhag Nagar Nigam Vs. Pradeshiya Industrial & Investment Corporation***[6], learned Senior Advocate has also argued that distinction being sought to be made by the Petitioners between levy of fee and levy of a tax

6 **2021 SCC OnLine SC 960**

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based on the principle of presence or absence of *quid pro quo,* is not tenable, as with the development of constitutional jurisprudence the distinction between a tax and a fee has substantially been reduced.

11. It has also been argued by learned Senior Advocate appearing for the Union of India that under Section 211 of the parent Act, even in absence of any express provision to that effect levy of additional fee in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, etc. can be provided for if the said provision is construed appropriately.

12. According to learned Senior Advocate representing Union of India, Section 211 mentions different services in the first category such as levy of fee in respect of applications, amendment of documents, issue of certificates, licences, permits etc., however, in the latter part of Section 211 occurs the phrase "for any other purpose or matter involving the rendering of any service" and accordingly, Section 211 contains a specific reference of involvement of rendering any service other than those mentioned in the earlier part of provision of Section 211.

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13. Based on the aforesaid reading of Section 211, it has been argued by the learned Senior Advocate representing the Union of India that Section 211 also uses the phrase "notwithstanding the absence of any express provision to that effect" and hence even if the said section does not specifically provide for levy of additional fee, it is well within the power and authority of Rule making body to prescribe for levy of additional fee. The submission of learned Senior Advocate representing Union of India is, thus, based on occurrence of two phrases in Section 211, viz (a) "notwithstanding the absence of any express provision to that effect" and (b) "and for any other purpose or matter involving the rendering of any service". His submission is that since application/ prayer for renewal of license of registration certificate is processed and considered even after expiry of the period of limitation prescribed in the Act/Rules, hence such rendering of service shall be covered by the phrase "for any other purpose or matter involving the rendering of any service" occurring in Section 211 and therefore, the Rule making authority is well within its jurisdiction, power and authority to levy additional fee for processing delayed application or prayer made for renewal of driving license or renewal of registration

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certificate or change of residence or transfer of ownership of non-transport vehicle. On the aforesaid counts, it has, thus, been prayed by Shri Govilkar, learned Senior Advocate that the Writ Petitions do not lay down any legally sustainable foundation, neither do they plead any sustainable ground so as to declare the impugned provisions as void or unconstitutional. He, thus, prayed that the Petitions be dismissed.

ISSUES:

14. The issue which arises for our consideration in these petitions are; (a) as to whether levy of additional fee by the impugned provision is beyond the power of the Central Government under Section 211 of the parent Act, and (ii) as to whether the additional fee levied by the impugned provisions is a penalty in disguise.

ANALYSIS:

15. In the process of considering the rival submissions made by learned Counsel representing the respective parties, it becomes necessary for us to analyze the relevant statutory provision i.e. Section 211 of the parent Act, which is quoted hereunder for ready reference:

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> ***"211. Power to levy fee***
>
> *Any rule which the Central Government or the State Government is empowered to make under this Act may, "**notwithstanding the absence of any express provision to that effect",** provide for the levy of such fees in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, countersignatures, authorization, supply of statistics or copies of documents or orders **"and for any other purpose or matter involving the rendering of any service"** by the officers or authorities under this Act or any rule made thereunder as may be considered necessary:*
>
> *PROVIDED that the government may, if it considers necessary so to do, in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full."*

16. A closer scrutiny of the afore-quoted Section 211 reveals that the Central and the State Government have been empowered to levy certain fee in respect of certain acts, such as processing of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, countersignatures, authorization, supply of statistics or copies of documents or orders by making Rule, provided the Central or the State Government is empowered to make such Rule under the Act.

17. Section 64 of the parent Act empowers the Central Government to make Rules to provide for certain matters enlisted therein. Section 110 of the parent Act also empowers

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the Central Government to make Rules regulating the construction, equipment and maintenance of motor vehicles and with respect to certain other matters enlisted therein. If we peruse Section 64 and 110 of the parent Act, what we find is that the said provisions unambiguously empower the Central Government to make Rules on the matters mentioned in Section 211 of the parent Act. Thus, the first requirement of the Central Government being empowered to make Rules for providing for levy of fee is undoubtedly fulfilled.

18. We, now, proceed to analyze Section 211 of the parent Act which, as observed above, empowers the Central Government to make Rules for providing for levy of fee in respect of certain acts of processing of applications for various purposes. The first striking phrase in Section 211 for the purpose of resolution of issues in this case is "notwithstanding the absence of any express provision to that effect". Thus, Section 211 clearly provides for power available to the Central Government to make Rules for the levying fee even in absence of any express provision to that effect. The occurrence of the said phrase i.e. "notwithstanding the absence of any express provision to that effect" could perhaps be regarded as not being happily worded

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general power to levy fee, however, the said phrase is relatable to absence of a provision for levy of fee but since what Section 211 provides for is the levy of fee, this very phrase is to be read as the provision empowering the levy of additional fee even if no other provision provides for such levy.

19. On further probe of Section 211 of the parent Act, what we also find is that the said provision empowers the Central Government to frame Rules for levying fee not only in respect of certain acts provided for in the said provision but for **"any other purpose or matter involving the rendering of any service"**. Thus, even though the acts listed in the earlier part of Section 211, for which fee can be levied, do not include the processing of delayed application for renewal of driving license or renewal of registration certificate, change of residence or transfer of ownership of vehicle, yet such acts to be performed by the authorities shall, in our opinion be covered within the meaning of the phrase **"and for any other purpose or matter involving the rendering of any service"**. Renewal of driving license on a delayed application or renewal of registration certificate on an application or prayer submitted or made beyond the prescribed period will also have to be construed as "service" for which the

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impugned provisions contain provision for levy of additional fee. Accordingly, we are of the opinion that if Section 211 is construed in this manner, the irresistibe conclusion is that the said Section explicitly vests power with the Central Government to make Rules providing for the levy of not only fee in respect of processing the applications, amendment of documents, issue of certificates, licences, permits etc., but also for levy of additional fee for processing the delayed application for seeking renewal of driving license or registration certificate.

20. We have observed above that the phrase **"notwithstanding the absence of any express provision to that effect"** makes Section 211 unhappily worded. Occurrence of such a phrase may result in the Central Government being vested with unbridled power to make Rules prescribing for levy of certain fee and the Section itself may become vulnerable as the Central Government would be vested with excessive delegation of power to make such Rules, however, since there is no challenge in these petitions to Section 211 of the parent Act, hence in absence of any such challenge, we refrain from making any observation in our judgment in this regard.

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21. Regarding the submissions made by the learned Counsel for the Petitioners that processing a delayed application seeking renewal of driving license or registration certificate of a vehicle does not involve rendering of any additional service and hence any Rule levying additional fee in absence of the element of *quid pro quo* is unsustainable, we may note that Hon'ble Supreme Court in ***Jalkal Vibhag Nagar Nigam (supra)*** has observed, *inter alia;* that the distinction between a tax and fee has substantially been effaced in the development of our constitutional jurisprudence. The Hon'ble Supreme Court in this judgment has further observed that at one time, it was possible for Courts to assume that there is a distinction between a tax and fee; a tax being compulsory exaction while a fee is for service rendered. However, this distinction, based on the element of *quid pro quo* in the case of a fee and its absence in the case of tax, has gradually been obliterated to the point where it lacks practical or constitutional significance. Hon'ble Supreme Court has gone to the extent of observing that **"the distinction that while a tax is compulsory exaction, a fee constitutes a voluntary payment for services rendered does not hold good and that as in the case of a tax, so**

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also in the case of a fee, the exaction may not be of truly voluntary in nature." Paragraph 55 of the judgment in the case of ***Jalkal Vibhag Nagar Nigam (supra)*** is apposite to quote here, which runs as under:

> *"55. The distinction between a tax and fee has substantially been effaced in the development of our constitutional jurisprudence. At one time, it was possible for courts to assume that there is a distinction between a tax and a fee : a tax being in the nature of a compulsory exaction while a fee is for a service rendered. This differentiation, based on the element of a quid pro quo in the case of a fee and its absence in the case of a tax, has gradually, yet steadily, been obliterated to the point where it lacks any practical or constitutional significance. For one thing, the payment of a charge or a fee may not be truly voluntary and the charge may be imposed simply on a class to whom the service is made available. For another, the service may not be provided directly to a person as distinguished from a general service which is provided to the members of a group or class of which that person is a part. Moreover, as the law has progressed, it has come to be recognised that there need not be any exact correlation between the expenditure which is incurred in providing a service and the amount which is realised by the State. The distinction that while a tax is a compulsory exaction, a fee constitutes a voluntary payment for services rendered does not hold good. As in the case of a tax, so also in the case of a fee, the exaction may not be truly of a voluntary nature. Similarly, the element of a service may not be totally absent in a given case in the context of a provision which imposes a tax."*

22. In ***Jalkal Vibhag Nagar Nigam (supra)***, Hon'ble Supreme Court has further observed that practical and constitutional distinction between a tax and fee has been weathered down and also that a fee may also involve compulsory exaction.

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23. Learned Counsel for the Petitioner has placed reliance on the judgment of the Madras High Court in the case of ***Chennai City Auto Ootunargal Sangam Vs. Tamilnadu Driving Schools Owners Federation***[7]***,*** whereby the provisions existing in the 1989 Rules to the extent of imposition of additional fee were declared void and resultantly were struck down to the said extent, however, when we peruse the said judgment, what we find is that Madras High Court has proceeded on the basic premise that neither the provisions of parent Act nor the 1989 Rules authorize punitive levy and that levy of additional fee is without the authority of law for the reason that the provisions of the Act and the Rules provide only for levy of fee and nothing beyond. The Madras High Court judgment has also relied on the doctrine of presence of element of *quid pro quo* for levying fee and has observed that the power extended to the Central Government in terms of Section 211 of the parent Act is for the levy of fee as *quid pro quo* for services offered by the authorities under the said Act and that there is no justification for levy of additional fee in the nature of penalty when there is no change in the nature of service rendered by the authorities on consideration of delayed application or prayer, particularly in

7 ***Madras High Court judgment in WP/1598/2017 a/w. connected matters dated 03.04.2017***

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absence of any statutory backing for levying the additional fee.

24. With all respect at our command to the judgment of the Madras High Court in the case of ***Chennai City Auto Ootunargal Sangam (supra),*** we may observe that the said judgment does not attempt to interpret Section 211 of the parent Act, specially, the interpretation which can be ascribed to Section 211 on account of occurrence of the phrases (a) "notwithstanding the absence of any express provision to that effect" and (b) "and for any other purpose or matter involving the rendering of any services".

25. We have already held that the phrase "for any other purpose or matter involving the rendering of any service" covers processing the delayed application seeking renewal of driving license or renewal of registration certificate or application for change of residence or transfer of ownership of vehicle and the authorities under the Act render service for which additional fee can be charged. Even otherwise, as observed by Hon'ble Supreme Court in the case of ***Jalkal Vibhag Nagar Nigam***, as per the latest trend in the development of constitutional jurisprudence the distinction between a fee and a tax has almost

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lost its ground. Accordingly, we are unable to subscribe to the view taken by the Madras High Court in the case of ***Chennai City Auto Ootunargal Sangam*** (supra).

26. We may also refer to yet another judgment of Hon'ble Supreme Court in the case of ***Sona Chandi Oal Committee and Ors. Vs. State of Maharashtra***[8], wherein it has been held that the traditional concept of *quid pro quo* in a fee has undergone considerable transformation and that so far as regulatory fee is concerned, the services to be rendered is not a condition precedent and the same does not lose the character of a fee provided the fee so charged is not excessive. It is not the case set up by the Petitioners that the impugned provisions provide for charging excessive additional fee. The additional fee being charged is for the purpose of processing delayed applications seeking renewal of driving license, registration certificate of vehicles, change of residence and transfer of ownership of vehicles and in our opinion, such acts are regulatory in nature in the sense that the same regulate plying of vehicles by trained and well-equipped drivers and those acts also regulate registration of motor vehicles to ensure their

8 **(2005) 2 SCC 345**

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fitness for being plied on the roads and other related subjects. Relevant observations made in this regard by the Hon'ble Supreme Court in paragraph 22 of the said report are extracted hereinbelow:

> *"22. …… it was held that the traditional concept of quid pro quo in a fee has undergone considerable transformation. So far as the regulatory fee is concerned, the service to be rendered is not a condition precedent and the same does not lose the character of a fee provided the fee so charged is not excessive. It was not necessary that service to be rendered by the collecting authority should be confined to the contributories alone. The levy does not cease to be a fee merely because there is an element of compulsion or coerciveness present in it, nor is it a postulate of a fee that it must have a direct relation to the actual service rendered by the authority to each individual who obtains the benefit of the service. Quid pro quo in the strict sense was not always a sine qua non for a fee. All that is necessary is that there should be a reasonable relationship between the levy of fee and the services rendered. It was observed that it was not necessary to establish that those who pay the fee must receive direct or special benefit or advantage of the services rendered for which the fee was being paid. It was held that if one who is liable to pay, receives general benefit from the authority levying the fee, the element of service required for collecting the fee is satisfied.*

27. It is well known that penalty is a deterrent. In this case, levy of additional fee as prescribed under the provisions of the 1989 Rules cannot be said to be any kind of deterrence. By providing a provision for consideration of delayed applications for renewal of driving license, registration certificate of vehicle, change of residence and transfer of ownership of vehicle etc., the 1989 Rules provide a facility to the vehicle owners or drivers to

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seek renewal of registration of their vehicles and driving licence beyond the time limit prescribed for the said purpose. Charge of additional fee, thus, not being a deterrent on any count, in our opinion, cannot be said to be a penalty.

CONCLUSION:

28. We, thus, on the basis of the aforesaid discussion conclude that Section 211 of the parent Act, if interpreted appropriately, vests power with the Central Government to make Rules providing for levy of additional fee for processing delayed applications for certain purposes such as for seeking renewal of driving license, renewal of registration certificate of a vehicle, change of residence and transfer of ownership of vehicle. We also have no hesitation to hold that the levy of additional fee in this case, is in no manner a penalty, either directly or in disguise.

29. In view of the law laid down by the Hon'ble Supreme Court in the case of ***Sona Chandi Oal Committee and Ors. (supra)*** and ***Jalkal Vibhag Nagar Nigam (supra)***, the judgments cited by the learned Counsel representing the Petitioners do not improve their case.

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30. Resultantly, the PIL Petition and the Writ Petition fail, which are hereby dismissed.

31. There will be no order as to costs.

32. Ad-interim relief dated 10th October 2017 granted in Writ Petition No.11380 of 2017 shall stand vacated.

(ARIF S. DOCTOR, J.) **(CHIEF JUSTICE)**

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