

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL CONTEMPT JURISDICTION

CONTEMPT PETITION (C) NO. 483 OF 2013

IN

WRIT PETITION (C) NO. 510 OF 2005

MANINDERJIT SINGH BITTA ...Petitioner

VERSUS

VIJAY CHHIBBER & ORS. ...Respondents

WITH

CONTEMPT PETITION (C) NO. 3 OF 2015

IN

WRIT PETITION (C) NO.510 OF 2005

MANINDERJIT SINGH BITTA ...Petitioner

VERSUS

DR. SHAILESH KR. SHARMA & ORS. ...Respondents

J U D G M E N T

R. BANUMATHI, J.

The instant contempt petitions have been filed by the petitioner herein highlighting the issue of implementation of Scheme of High Security Registration Plates (HSRP) in disobedience of this Court's order dated 08.12.2011 reported in (2012) 1 SCC 707 titled *Maninderjit Singh Bitta vs. Union of India & Ors.* and order dated 07.02.2012 reported in (2012) 4 SCC 568 titled *Maninderjit Singh Bitta vs. Union of India &*

Ors. passed in W.P. No.510 of 2005 and connected matters. In these contempt petitions, the petitioner alleges that the respondents-contemnors have not ensured the implementation of the orders of this Court and have failed to discharge the statutory duty imposed upon them by law by not taking any appropriate action against M/s. Utsav Safety Systems Pvt. Ltd and its consortium partners for violating the terms of tender conditions and directions of this Court.

2. The matter was heard at length on various dates. Having regard to the arguments advanced *in extenso*, it is necessary to refer to the factual matrix of the case which led to the filing of these contempt petitions:- After the terrorist attack on the Parliament in 2002, urgency was felt to check usage of motor vehicles in terrorists' activities. Therefore, the Central Government on the recommendation of its Technical Committee devised the scheme of HSRP, so as to ensure public safety, security and to curb the increasing menace of vehicle thefts and their usage in commission of crimes like murder, dacoity, kidnapping etc. With this avowed object, Rule 50 of the Central Motor Vehicles Rules, 1989 (for brevity 'CMV Rules') which deals with "*Form and manner of display of registration marks on the motor vehicles*" was amended by the Central Government in exercise of its rule making power

under Section 64 of the MV Rules. The amended scheme of rule 50 substituted the erstwhile system where the registration number was given by the RTO and the ordinary registration plates obtained from the open market were installed on the vehicles. Rule 50 was amended to ensure the technical competence of the prospective manufacturers, controlled issuance of registration plates and a manufacturer can manufacture the said plates only after it has got Type Approved Certificate (TAC) from one of the autonomous certifying agencies. Supply of the plates to the vehicular users can be made only after the grant of certificate of Conformity of Production (CoP).

3. The Government of India on 28.03.2001 issued a notification under Section 41(6) of the Motor Vehicles Act, 1988 (for short “the Act”) read with Rule 50 of the MV Rules for implementation of the provisions of the Act in terms of sub-Section (3) of Section 109 of the Act. The Central Government issued an order dated 22.08.2001 which deals with various facets of manufacture, supply and fixation of new high security registration plates. The Central Government also issued a notification dated 16.10.2001 for further implementation of the said order and HSRP scheme.

In order to implement the scheme, various States also invited tenders for manufacture and supply of HSRP.

4. A Writ Petition being W.P. (C) No.41 of 2003 was filed in this Court by the Association of Registration Plates, challenging the Central Government's power to issue such notification as well as the terms and conditions of the tender process. In addition to the aforesaid writ petition, various other writ petitions were filed before the different High Courts, raising the same challenge and those writ petitions came to be transferred to this Court. By the Judgment reported in (2005) 1 SCC 679 titled *Association of Registration Plates vs. Union of India & Ors.*, this Court dismissed the Writ Petition(C) No. 41 of 2003 and other connected matters, and upheld the validity of rule 50 as well as tender conditions. While doing so, this Court also issued certain directions for appropriate implementation of the scheme. The relevant para (31) reads as under:-

“31. Justifying the selection of a single manufacturer for a region or an entire State, to ensure security considerations, the following factors have been highlighted as subserving the public interest:

1. That it would not be possible to implement the scheme since the scheme provides that the approved manufacturer would use the premises .of the State RTO and lay down V-Sat links so that the entire State is networked on a common platform.
2. It would be impossible for the State to provide all the TAC-holders space and infrastructure in the RTO premises.
3. It would be difficult for the State to identify the source of any counterfeiting in case there are multiple manufacturers.

This would severely compromise the security considerations involved in the scheme.

4. Different manufacturers would lead to variations in price between different manufacturers.

5. The State is at a disadvantage since all the manufacturers would prefer to concentrate on supplying only in Kolkata and would not go to the other far-flung RTOs where he would not recover the returns on his investment.

6. In case more than one manufacturer operates within the State, it will lead to discrepancy and non-uniformity in price structure prevailing in different regions.

7. Difficulty in assimilation of data from more than one manufacturer would lead to disaggregated and confusing database signals. Such sensitive and security-related business must be governed by uniform database management processes and unified standardised coding practices.

8. Different manufacturers would mean that there would be variation in quality of the material and in terms of workmanship.

9. Possible duplication of registration plates due to competition between manufacturers of different regions and lack of aggregated security-controlled database management systems.

10. Non-conformity of data of different manufacturers would lead to confusion and integration of data from the State RTOs.

11. Difficulty in fixing up the answerability on any one manufacturer for not following the prescribed procedure.

12. Confidentiality of the public database would be severely compromised.

13. Provision of training of RTO personnel by each manufacturer would be a logistic nightmare and would lead to confusion and further lead to the system being compromised severely.

14. It is also important to note that each registration plate has a unique number, and consequently, all the RTOs are required to be electronically connected to each other; if the vendors are allowed to proliferate, this connection would not be possible, and would lead to complete chaos.”

5. It was observed that none of the tender conditions were arbitrary and discriminatory and in para (40), it was held as under:-

“40. Selecting one manufacturer through a process of open competition is not creation of any monopoly, as contended, in violation of Article 19(1)(g) of the Constitution read with clause

(6) of the said article. As is sought to be pointed out, the implementation involves large network of operations of highly sophisticated materials. The manufacturer has to have embossing stations within the premises of the RTO. He has to maintain the data of each plate which he would be getting from his main unit. It has to be cross-checked by the RTO data. There has to be a server in the RTO's office which is linked with all RTOs in each State and thereon linked to the whole nation. Maintenance of the record by one and supervision over its activity would be simpler for the State if there is one manufacturer instead of multi-manufacturers as suppliers. The actual operation of the scheme through the RTOs in their premises would get complicated and confused if multi-manufacturers are involved. That would also seriously impair the high security concept in affixation of new plates on the vehicles. If there is a single manufacturer he can be forced to go and serve rural areas with thin vehicular population and less volume of business. Multi-manufacturers might concentrate only on urban areas with higher vehicular population."

6. After the decision in *Association of Registration Plates* (supra), the petitioner herein being aggrieved with the non-implementation of HSRP scheme in its true letter and spirit, launched the second round of litigation by filing Writ Petition (C) No.510 of 2005, wherein, this Court passed various orders dated 08.05.2008, 05.05.2009, 07.04.2011, 30.08.2011, 13.10.2011, 08.12.2011 and 07.02.2012, so as to ensure the integrity and implementation of the scheme and gave various directions to the States and manufacturers. This Court vide Order dated 08.05.2008 reported in (2008) 7 SCC 328 observed as under:

"...we feel it would be in the interest of all concerned if the States and the Union Territories take definite decision as to whether there is need for giving effect to the amended Rule 50 and the Scheme of HSRP and the modalities to be followed."

7. Despite the above order of this Court, most of the States have failed to implement the scheme in its true spirit. This resulted in filing of I.A. No.5 in Writ Petition (C) No.510 of 2005 wherein the applicant prayed for a clarification of order dated 08.05.2008 stating that some of the States were carrying the impression as if they had the discretion to give effect to the amended rules and the scheme. Vide the Order dated 05.05.2009, this Court held that there is no discretion given to the States/Union Territories in implementation of the amended rules.

8. Further, by an order dated 07.04.2011 of this Court, reported in (2011) 11 SCC 315, passed in I.A Nos.10-11 of 2010, wherein the States sought extension of time for implementation of the HSRP scheme, this Court took serious view of the matter that there are certain States which have not even started the process of implementing the HSRP Scheme and directed such States to file affidavits explaining why contempt proceedings should not be initiated. It was observed by this Court that despite tenders being issued long back, no further step was taken.

9. Thereafter, vide Order dated 30.08.2011 reported in (2011) 14 SCC 273, this Court again took the serious view

of the non-implementation of HSRP scheme. The Court observed that:-

“...We regretfully note that the situation in the present case is the converse of compliance. There is no State in the entire country which has successfully, in accordance with the statutory provisions and scheme, as approved by this Court, implemented the scheme in its entirety...”

10. Vide Order dated 13.10.2011 reported in (2012) 1 SCC 273 titled *Maninderjit Singh Bitta vs. Union of India And Ors.*, this Court again noted the disobedience of earlier order of this Court by the State of Haryana and punished them for contempt, imposing a fine of Rs.2,000/- each on those who were responsible for disobedience of this Court's order and exemplary cost of Rs.50,000/- on the State. Vide Order dated 08.12.2011 reported in (2012) 1 SCC 707 titled *Maninderjit Singh Bitta vs. Union of India And Ors.*, this Court referred to the affidavits filed by the various States and in order to ensure proper implementation of the HSRP Scheme, gave general directions in para (53). It is apposite to refer to the relevant direction in para (53.5) which reads as under:-

“5. On behalf of the petitioner and some of the States, a question has been raised before us that contractors have responded to the notices for tender in consortium. This is being done primarily for the purpose of satisfying the condition of specialised experience for manufacture and affixation of HSRP. However, after award of the contract, the partner possessing expertise (Type Approval Certificate, approval, etc.) in the consortium may walk out from the performance of the contract. In this circumstance, the very purpose would stand frustrated. We find merit in this submission but would refrain from issuing any direction in that behalf, at this stage. It will

be for the State/Union Territory concerned to take appropriate decision with reference to the facts of a given case and in accordance with law. *Prima facie*, it appears to us that it would be in the interest of all concerned that all the members of the consortium including the member possessing the expertise should continue as such till the performance of the contract.”

11. By the aforesaid order dated 08.12.2011 in paras (4) to (6), this Court has also set aside the approach adopted by the State of Andhra Pradesh in tender proceedings and directed the State of Andhra Pradesh to issue fresh tender, award the contract and commence implementation of the HSRP Scheme positively by 29.02.2012. Paras (4) to (6) of Order dated 08.12.2011 read as under:-

“4. It is the case of the State of Andhra Pradesh that it published the notice inviting the tenders on 8-10-2011 and the due date of the tender bids was 26-11-2011. The State claims that it has prepared a comprehensive framework to implement the HSRP scheme and authorised Andhra Pradesh State Road Transport Corporation to roll out the end to end solution for the project. It has decided to have a competitive bidding process by segregating the tender into different sections i.e. one for manufacturing, another for embossing, hot stamping and printing of HSRP and yet another to supply the same to the Corporation for installation.

5. Again, the process adopted by the State of Andhra Pradesh is not only in violation of the directions contained in paras 39 and 40 of the judgment of this Court in *Assn. of Registration Plates v. Union of India* but is also contrary to the Notification dated 16.09.2011 which was issued under sub-section (3) of Section 109 of the Motor Vehicles Act, 1988 and called the Motor Vehicles (New High Security Registration Plates) Order, 2001. This Order does not permit the completion of the HSRP scheme in the manner sought to be adopted by the State of Andhra Pradesh. The State was to award the contract but the same has not so far been awarded.

6. In the circumstances aforementioned, we direct the State of Andhra Pradesh to issue fresh tender, award the contract and commence the implementation of the scheme positively by 29.02.2012. It has assured this Court that now it would positively abide by the time schedule and do the needful.”

12. In the said order the approach adopted by the Government of NCT of Delhi was commented upon and this Court observed that the procedure adopted by them, is not in conformity with the judgments of this Court. The directions relating to the Government of NCT of Delhi in paras (19) and (20) read as under:-

“19. Be that as it may, to some extent, the procedure adopted by the Delhi Government is not in conformity with the judgments of this Court. From the documents now filed on record, it appears that DIMTS has reserved onto itself the power to select more than one vendor for the project. It is also stipulated in the draft agreement that the supplier of the plate shall notify the purchaser in writing of all sub-contracts awarded under the contract. We make it clear that neither Rule 50 of the Motor Vehicles Rules, 1989 (for short “the Rules”), the Motor Vehicles (New High Security Registration Plates) Order, 2001 nor the judgments of this Court permit sub-contracts to be awarded by the contractor to whom the award for manufacture and fixation of HSRP is awarded.

20. Furthermore, in their affidavit dated 26-11-2011 it has been stated that DIMTS is also taking other steps and it has divided the implementation process into two parts: Firstly, procurement of blank HSRP conforming to Rule 50 of the Rules and personalisation of plates by embossing, hot stamping of number plates, quality checking, printing of third number plate, set matching, dispatch, transportation and installation of HSRP. Secondly, it is not permissible to bifurcate the process under different heads or in parts. It is a mandatory requirement that one person should exclusively be responsible for the entire process in the interest of security. Thus, we make it clear that DIMTS, when it is getting the HSRP manufactured from the contractor, such manufacture should be firstly from a single contractor and secondly it should, without fail, be under the direct supervision and control of DIMTS. They should not let the sub-contractors or other parties to have control over the manufacturing processing and fixation of HSRP in any manner, whatsoever. They should ensure that one single person is responsible for manufacturing, affixation of seals, imprinting of numbers and affixation of HSRP on the vehicles in the NCT of Delhi.”

13. Finally, vide an Order dated 07.02.2012 reported in (2012) 4 SCC 568 titled *Maninderjit Singh Bitta vs. Union of*

India And Ors., this Court disposed of the W.P.(C) 510/2005 by sending the files to respective High Courts to take action as per law and in para (17), it was held as under:-

“17. Having perused the report of the Registrar and the affidavits filed on behalf of different States, we issue the following directions:

(a) All States which have invited tenders, have completed the process of finalising the successful bidder and issued the letter of intent, but have not yet signed agreements with the successful bidder, shall sign such agreements within four weeks from today. These States are Assam, Bihar, Gujarat, Haryana, Jammu and Kashmir, Jharkhand, Punjab, Tripura and Uttar Pradesh.

(b) The States which have so far not even finalised the tender process, they should do so, again, within four weeks from today. Amongst others these States and Union Territories are Chhattisgarh, Madhya Pradesh, Chandigarh, Delhi (NCT) and Puducherry.

(c) Installation of HSRP is a statutory command which is not only in the interest of the security of State, but also serves a much larger public interest. Therefore, it is not only desirable, but mandatory, for every State to comply with the statutory provisions/orders of this Court in terms of Article 129 of the Constitution of India, 1950. All States, therefore, are mandated to fully implement the Scheme of fixation of HSRP in their entire State, positively by 30-4-2012 in relation to new vehicles and 15-6-2012 for old vehicles. We make it clear that they shall not be allowed any further extension of time for implementation of this direction.

(d) The directions contained in the earlier judgments of this Court and more particularly, the orders dated 30-8-2011, 13-10-2011, 8-12-2011 and this order, should be implemented within the extended period without default.

(e) In the event of default, Secretary (Transport)/Commissioner, State Transport Authority and/or any other person or authority concerned responsible for such default shall be liable to be proceeded against under the provisions of the Contempt of Courts Act, 1971.”

This Court further gave liberty to approach this Court again, in case of violation of HSRP scheme. It was pertinently observed:-

“18. We grant liberty to the petitioner and/or any other person to take out contempt proceedings, if now there is any non-compliance with the orders of this Court and the statutory

duty imposed upon the authorities concerned with regard to implementation and completion of the scheme and process of fixation of HSRP, in any State/Union Territory.”

14. Based on the liberty so granted, the petitioner has now launched the third round of litigation by filing the instant contempt petitions alleging the disobedience of the various Orders of this Court discussed hereinabove, specifically orders dated 08.12.2011 and 07.02.2012. This Court vide Order dated 01.05.2014 observed that as per the bid document, the location of the factory of M/s. Utsav Safety Systems Pvt. Ltd. (the technical partner) is disclosed at Plot No.3A, Phase-IV, Industrial Area, Golematah, District Bilaspur, Himachal Pradesh. Petitioner alleges that though M/s Utsav has informed ARAI (testing agency) only about the existence of two manufacturing plants i.e. Himachal Pradesh and Delhi, Blank High Security Plates are manufactured by M/s. Utsav Safety Systems Pvt. Ltd. at a plant in Assam by outsourcing the work to M/s Rosmerta Technologies Pvt. Ltd. The Order dated 08.12.2011 reported in (2012) 1 SCC 707 does not permit sub-contracts to be awarded by the contractor to whom the contract for manufacturing and fixation of HSRP is awarded and accordingly this Court took the cognizance of the contempt petitions.

15. Petitioner has alleged that M/s. Utsav in utter violation of Rule 50, terms of bid and TAC and various orders passed by this Court has manufactured HSR plates through job work at an unauthorised unit in Assam and by doing so, M/s. Utsav has deliberately disobeyed the various orders passed by this Court from time to time and the respondents have deliberately chosen not to take any action against M/s. Utsav and private contractors despite there being clear violation of the rules and orders passed by this Court and such omission in not initiating action against the violators amounts to contempt of court and the respondents are liable to be punished on account of their having committed wilful disobedience of the orders of this Court. It is further averred that the petitioner had filed the complaint against M/s. Utsav, M/s. Rosmerta and M/s. Linkpoint pursuant to which a meeting was held in the Ministry of Road Transport and Highways on 29.10.2013. Referring to the manufacture and supply of HSR Plates from the Assam unit, in the meeting, decision was taken to constitute a team of three members to inspect and verify the procedure and manufacturing activities in the plant located at Assam *inter-alia* on various aspects i.e. quantity of HSR Plates produced till date which includes: (i) sizes and colours of plates; (ii) laser code records; (iii)

security feature records and (iv) status of plants at Assam including where the job work is done etc. The three members committee gave its inspection report dated 29.11.2013. As per the report, the team observed that there is only one building in the same compound having the address of 54, Brahmaputra Industrial Park, Sila, Sila Sinduri Ghopa Changsari, Kamrup, Assam and the same is divided into two parts; one part is registered in the name of M/s. Utsav and other part is registered in the name of M/s. Rosmerta. The committee observed that M/s. Utsav was supplying raw material to M/s. Rosmerta who in turn was manufacturing blank plates as a job work with the material supplied by M/s. Utsav. Based on the inspection, the team recorded its conclusion as under:-

“Conclusion:

- Utsav is outsourcing the HSRP blank operation through job work from ROSMERTA. Laser coding as well as security features control was executed by Utsav from beginning to till date.
- Utsav Guwahati plant dispatched a total of 5673391 Pcs HSRP plates since December 2012 onwards and they are given as under:-
 - ✓ Himachal Pradesh factory with and without laser coding
 - ✓ Delhi for laser coding and distribution
 - ✓ All State consortium partners after laser coding
 - Out of a total 5673391 Pcs HSRP plates, 19,19,550 HSRP plates were dispatched in the month of November, 2013 by Utsav to various implementing companies while 51830 Pcs HSRP is stock at the Guwahati factory of Utsav.”

Petitioner alleges that as per bid document of M/s. Utsav, HSRPs ought to have been manufactured at Himachal Pradesh Plant of M/s. Utsav. However, the plates were manufactured at an unauthorized unit in Assam and thus it is a clear case of sub-contracting of work carried without control and supervision of M/s. Utsav which has been conferred TAC and CoP and a clear case of violation of Rule 50 and Orders of this Court emerges.

16. The petitioner's counsel also relies upon the report of the Inquiry Committee of NCT of Delhi dated 31.01.2014 which reported large-scale violations committed by the approved manufacturer in the NCT of Delhi (i.e., consortium of M/s. Utsav-Technical Partner and M/s. Rosmerta-Financial Partner). It is stated that NCT of Delhi had also issued show cause notice dated 10.03.2014 to the consortium of M/s. Utsav i.e. M/s. Rosmerta stating that "M/s. Utsav Safety Systems Pvt. Ltd. Technical Partner of SPB are not supplying any blank HSR Plates after 10.08.2013 and also alleged that uncertified HSRPs are being procured/supplied/affixed by M/s. Rosmerta Technologies.

17. Furthermore, the petitioner relies upon the Utsav's letter dated 17.10.2013 addressed to the Transport Commissioner, Government of Delhi wherein M/s. Utsav has

admitted that its concessionaire partners have supplied uncertified and unauthorized HSRPs. The relevant portion of the said letter dated 17.10.2013 addressed to the Transport Commissioner, Government of Delhi, reads as under:-

“...It is to bring to your kind notice that M/s. Rosmerta Technologies Ltd. which is the other stake-holder, in the SPV has been concerned with the purchase of Blank number plates from M/s. Utsav Safety Systems Pvt. Ltd. and the supply embossment and fixing of the same to the vehicles in the State. It is noteworthy that M/s. Rosmerta Technologies Ltd. under the guise of the Concession agreement has supplied huge quantities of HSRP in the name of M/s. Utsav Safety Systems Pvt. Ltd. to the Vehicle owners of the State without taking M/s. Utsav Safety Systems Pvt. Ltd. manufactured HSRP and by resorting to the supply of uncertified and unauthorized HSRP's. I would like to bring to your kind notice that the manufacturing establishment that has been laid at Guwahati, Assam by M/s. Rosmerta Technologies Limited has not been approved by Automotive Research Association of India (hereinafter referred to as 'ARAI'), hence any supplies of HSRP made from there would be a prima facie violation of the Rule 50 and its inherent norms of selection of Type Approved Manufacturer for the supplies of HSRP in any of the States of India...”

The counsel averred that on the same line, M/s. Utsav had also issued notice to M/s. Linkpoint Infrastructure Pvt. Ltd. stating that under the guise of Concession Agreement, M/s. Linkpoint Infrastructure had unauthorisedly manufactured and supplied uncertified number plates in the respective States and thereby committed material breach of Rule 50 of the CMV Rules and also the Orders passed by this Court. Subsequently, M/s. Utsav and M/s. Linkpoint Infrastructure Pvt. Ltd. by the settlement dated 19.03.2014 have resolved

and settled all their disputes and arrived at final settlement regarding their *inter-se* disputes.

18. Learned counsel for the petitioner submitted that as per the bid document the only plant which was approved was Bilaspur, Himachal Pradesh Plant and there is enough material on record to show that 5725221 blank HSR Plates were manufactured and supplied from the unauthorised and unapproved plant in Assam and there was no approval granted to the said plant at Assam and the same is in violation of Rule 50 and orders of this Court and such violation is due to lack of respondent's administrative conviction to abide by the existing statutory norms and the petitioner therefore prayed for initiating contempt proceeding against respondents and also *inter alia* prayed for various directions for strict compliance of HSRP Order 2001.

19. Per Contra, counsel for the respondents have in response to the allegations in the contempt petitions, filed various affidavits denying that there has been any disregard to the orders of this Court. In the affidavit filed on behalf of respondents No. 1 to 4, it is averred that Rule 50 of CMV Rules of 2001 does not place a specific bar on 'job work' or sub-contracting and the same would however be subject to sub-clauses (xvii) and (xviii) of Clause 4 of the Motor Vehicles

New HSRP Order that the manufacturer or the supplier would all times be in control over all the security features and that he shall not sell any incomplete plate or security features to anyone. It is further averred that the complete bar on the job work may hinder implementation of HSRP scheme in a time bound manner. It has been contended that in the process of implementation of HSRP Scheme, it may be possible to get the certain items of work executed on 'jobwork' basis without compromising security of the process. It is further submitted that the issue of 'outsourcing' was examined in the Ministry of Road Transport and Highways in a meeting of the representatives of ARAI and CRRI held on 03.02.2014. It was decided that the provisions of the Motor Vehicles (New High Security Registration Plates) Order 2001 with its amendments cannot be interpreted to prevent outsourcing of manufacturing activities to other firms when all security features are in control of TAC manufacturer or the supplier.

20. The statutory agency viz., ARAI in its counter affidavit stated that M/s. Utsav is outsourcing its work through jobwork done from M/s. Rosmerta Infrastructure Pvt. Ltd. States have also filed various affidavits stating that they have taken sufficient action to comply with the orders of this Court to implement HSRP scheme. Many States in their

counter affidavits have referred to the action taken against M/s. Utsav by issuing show cause notices for violation of Rule 50.

21. We have considered the rival submissions and perused the averments in the counter affidavits and other material on record.

22. At the outset, it is necessary to note that M/s. Utsav Safety Systems Pvt. Ltd. (for short “M/s. Utsav”) has got a tender for manufacturing HSRPs at least in seven states by entering into Special Purpose Vehicle (SPV) either with M/s. Linkpoint or with M/s. Rosmerta. The details of the contracts awarded to M/s Utsav and the SPVs/consortium partners are as under:-

Sl. No.	State	Details of SPV/Consortium Partners
i.	Himachal Pradesh	SPV M/s. Link Utsav Ventures (P) Ltd. (SPV Partners M/s. Link Point Infrastructure Pvt. Ltd. and M/s. Utsav Safety Systems Pvt. Ltd.)
ii.	Haryana	SPV M/s. Link Utsav Registration Plates Pvt. Ltd. (SPV Partners M/s. Link Point Infrastructure Pvt. Ltd. and M/s. Utsav Safety Systems Pvt. Ltd.)
iii.	Uttarakhand	SPV M/s. Link Utsav HSRP Pvt. Ltd. (SPV Partners M/s. Link Point Infrastructure Pvt. Ltd. and M/s. Utsav Safety Systems Pvt. Ltd.)
iv.	Delhi	SPV M/s. Rosmerta HSRP Ventures Pvt. Ltd. (SPV Partners M/s. Rosmerta Technology Ltd. and M/s. Utsav Safety Systems Pvt. Ltd.)
v.	Andhra Pradesh & Telangana	SPV M/s. Link Autotech Pvt. Ltd. (SPV Partners M/s. Link Point Infrastructure Pvt. Ltd. and M/s. Utsav Safety Systems Pvt. Ltd.)
vi.	West Bengal	Consortium Partners M/s. Utsav Safety Systems Pvt. Ltd., M/s. Subba Microsystems Ltd. and M/s. M.S. Associates.
vii.	Bihar	Consortium Partners M/s. Link Point Infrastructure Pvt. Ltd. and M/s. Utsav Safety Systems Pvt. Ltd.).

In so far as the State of Madhya Pradesh is concerned, M/s. Utsav is in SPV partnership with M/s. Linkpoint. Due to violations of Rule 50 plus terms and conditions of the contract, the contract awarded to SPV-M/s. Linkpoint Infrastructure Pvt. Ltd. had been cancelled and the matter is *sub-judice* in the High Court of Madhya Pradesh.

23. Before we proceed to consider the merits of the contentions raised by the petitioner, it is imperative to discuss what are TAC and CoP:-

Type of Approval Certificate (TAC) and Conformity of Production (CoP): Once a person has been declared successful bidder for the manufacturing of HSRPs then such bidder has to obtain TAC and CoP from the testing agency before starting manufacturing. Rule 50 of the Central Motor Vehicles Rules 1989 provides for form and manner of display of registration marks. Rule 50 authorizes the testing agency to give TAC to individual manufacturer for the manufacture of HSRPs. In conformity with the specifications prescribed under the rules. At present there are four testing agencies to issue TAC which include the Automotive Research Association of India (ARAI); Vehicle Research and Development Establishment (VRDE); Central Road Research Institute (CRRI), New Delhi. The successful bidder for the manufacturing of HSR plates after

completion of manufacturing of HSR plates to apply for TAC, has to pay the prescribed fee and submit prototype samples of licensed plates conforming to the specifications under the rules. After brief checking of approval of drawings, each manufacturer will have to submit prototype samples of the licensed plates conforming to the drawing approved by the institute. The testing and evaluation of HSRP samples shall be as per the specifications laid down in the gazette notifications. M/s. Utsav was initially issued the TAC on 08.07.2002 by ARAI and received the first conformity of the production on 07.08.2003 and the same were subsequently renewed.

24. In the counter affidavit filed by sixth respondent (ARAI), it is stated that there are two stages of manufacturing process—first carried out in a plant/factory of the TAC holder and thereafter the processes like embossing of registration allocated by the concerned RTO which is to be undertaken in RTO premises. Details of two stages of manufacturing and installation process are as under:-

Processes which are to be carried out in the plant/factory of TAC holder:

- Purchase of Raw material namely reflective sheet, Aluminium Plate, Chromium based hologram, hot stamping black foil film and non-removable snap lock for fixing plates etc.

- Lamination of reflective sheet having blue endorsement of IND on the aluminium plate.
- Hot Stamping of Hologram on the reflective sheet after lamination.
- Stamping of blank plate.
- Edge formation of the plate.
- Etching unique security laser coding number running serially having two allocated alphabets prefixed to the unique number as given in TAC.

Processes which are to be taken in RTO premises:

- Embossing of registration number allocated by RTO along with hot stamping of black foil with blue pigment inscription on the number allocated and also on the border of plate.
- Making of the third sticker on a destructive film having hologram, laser coding numbers, name of RTO, engine number, chasis number, registration number allocated by RTO for front and rear plates.
- Fixation of finished HSRP on the vehicle using Snap Lock and fixing of third sticker on the wind screen for 4-wheeled vehicles.

25. From the report of the minutes of the various meetings and report of the inspection team, it is seen that M/s. Rosmerta is not a Technical Partner or a Financial Partner (except in the NCT of Delhi) in any of the States where M/s. Utsav has got a tender of manufacturing HSRPs. As per the HSRP Order of 2001, HSRPs have to be certified by the testing agencies. Manufacturing unit of M/s. Rosmerta in the State of Assam has not been certified by any of the testing agencies. As per the CoP guidelines, the manufacturer of HSRPs has to inform the testing agency which had granted the TAC within one month of commencement of

manufacturing and thereafter has to inform after every fifteen lakhs plates manufactured or two years whichever is earlier. As noticed earlier, as per the report of the inspecting team dated 29.11.2013, M/s. Rosmerta-Assam Plant had manufactured a total number of 5725221 blank HSRPs and distributed to consortium partners of all States. However, M/s. Rosmerta has not been granted the CoP certificate from the testing agency, evidently the HSRPs manufactured at M/s Rosmerta Assam Plant could not have been verified by the testing agency.

26. M/s. Utsav filed IA No.3/14 dated 25.02.2014 stating that joint venture consortium of M/s. Utsav with M/s. Rosmerta in the NCT of Delhi is the approved manufacturer. While M/s. Utsav in consortium with M/s. Linkpoint (SPV partners) is the approved manufacturer in the States of Haryana, Madhya Pradesh, Himachal Pradesh, Uttarakhand, Bihar, Delhi and Andhra Pradesh, in I.A.No.3/14 M/s. Utsav has highlighted how it has lost control over the manufacturing process, is in violation of CoP, and also manufacture and supply of HSRPs by M/s. Rosmerta situated in the State of Assam which has not been certified by any of the testing agencies and that there is clear violation of Rule 50 of CMV Rules and CoP guidelines. Though, subsequently

M/s. Utsav filed the application to recall the said I.A.No.3/14, the averments made in I.A.No.3/14 speak volumes about the actual truth of the Concessionaire Agreement between M/s. Utsav Technical Partner on the one hand and M/s. Rosmerta and M/s. Linkpoint on the other.

27. In the light of the above discussion, in our view, there seems to be *prima facie* violation of Rule 50 of CMV Rules and orders passed by this Court. The question is whether the respondents/officials are to be proceeded against for wilful disobedience of the various orders passed by this Court. In the facts and circumstances of the case discussed *infra*, we are not inclined to initiate contempt proceedings against the respondents. M/s. Utsav has given an undertaking to the effect that in future it shall not outsource the blank plate manufacturing as jobwork and that the HSRP scheme will be implemented as per the terms and conditions of the contract. The undertaking of M/s Utsav reads as under:

- That Utsav is a holder of Type Approval Certificate (TAC) and Conformity of Production (CoP) having a manufacturing facility as on date at Plot No.3A, Phase IV, Industrial Area, Golematah, District Bilaspur, Himachal Pradesh-174201.
- I hereby state that Utsav shall not outsource the blank plate manufacturing (as was being done at Assam till November 2013) as job work for the purpose of implementation of the terms and conditions of the contract. Utsav who holds TAC Certificate will be

manufacturing blank plates at its plant in Himachal Pradesh and the implementation of the HSRP Scheme will be done by the Concessionaire at the place designated by the State transport authorities in accordance with the terms and conditions of the contract and the MV Rules/Order.

-In the event, any such other/additional unit/s of Utsav commences manufacturing activity in any other location, due process of law will be followed and necessary approvals would be taken as envisaged under the applicable norms and requirements flowing from Act, Rules, Order etc. and the conditions stipulated under respective tenders, as accepted. In that eventuality, Utsav may manufacture not only at Himachal Pradesh but at any other place duly approved by the competent authority/ies. The statement made in Para 4 hereinabove shall equally apply to any such manufacturing activity.

Having regard to the undertaking filed by M/s. Utsav and considering the passage of time, we are not inclined to proceed with the contempt proceedings.

28. Though, we are not proceeding against the contemnors, it is open to the respective states to proceed against M/s. Utsav or the respective SPV for violation, if any, noticed or brought to its notice. Be it noted that in view of the continued non-compliance of Authority's instructions and statutory violations, the State of Madhya Pradesh has terminated the Concessionaire Agreement by its Order No.1538 dated 19.06.2014. M/s. Link Utsav Auto Systems Pvt. Ltd. filed W.P. No.3654/2014 before the High Court and the said termination was quashed by the High Court by its order dated 05.08.2014 on the ground that M/s. Link Utsav

Auto Systems Pvt. Ltd. did not get adequate opportunity to explain its conduct and the Court granted liberty to the State Government to issue a fresh show cause notice within a period of three months. After issuing fresh notice dated 29.08.2014 and after affording fresh opportunity to M/s. Link Utsav Auto Systems Pvt. Ltd., the State of Madhya Pradesh terminated the Concessionaire Agreement by its order dated 17.10.2014. The Delhi Government also issued show cause notice dated 10.03.2014 to M/s. Rosmerta HSRP Ventures Pvt. Ltd. for non-compliance/violation of the statutory scheme and orders of this Court. We make it clear that it is open to the Delhi Government and other States to proceed against the holders of concessionaire agreements in case of any violation of the statutory scheme and orders of this Court.

29. In the counter affidavit filed by the DGM on behalf of ARAI, it has been mentioned that ARAI approves the prototype motor vehicles and safety critical components thereof, as per the notified Central Motor Vehicle Rules (CMVR) and standards referred therein. On verification of documents including testing, TAC is granted after compliance of CMVR is established. Government of India, MoRT&H vide letter No.RT-11028/5/2002 MVL dated 04.09.2002 issued

the Conformity of Production (CoP) procedure and the aforesaid letter provides for the checks to be carried out by the test agency during the first CoP and the subsequent CoPs. In the absence of any specific notification on the subject, this was construed as guidelines for issuing the CoP.

The said letter reads as under:-

The CoP procedure will comprise the following:-

- The prospective vendors after establishing manufacturing plant in the country shall inform the concerned Testing Agency which had granted Type Approval Certificate within one month of commencement of manufacturing. The Testing Agency will draw samples of the plates from the plant within three months of date of Commencement of Production (CoP) and carry out all the tests, which were carried out at the Type Approval stage.
- First CoP will be conducted at the manufacturer's plant and subsequent CoPs would be done on the basis of samples drawn at random from the vendor's premises. Checks as per Annexure-I may be carried out at the first and subsequent CoPs.
- At the time of CoP all the tests, such as, visual test, status of laser branded permanent identification number of the plate, vis-à-vis, records of the RTO regarding issue of plates etc. shall be carried out, except weathering test which may be carried out once in two years. Details of checks to be carried out at the first and subsequent CoPs are at Annexure-I.
- The CoP frequency shall be 5 lakh number plates or six months whichever is earlier.

30. The main concern of the petitioner is that M/s. Utsav Safety Systems Pvt. Ltd. which is holding TAC issued by ARAI has to manufacture the HSRP in its own plant and it cannot give incomplete plates or jobwork to other consortium partners namely M/s. Linkpoint Infrastructure Pvt. Ltd. and M/s Rosmerta Technologies Ltd. who are selling illegal HSRPs in various States. ARAI has no role to play so far as activities

of M/s. Linkpoint Infrastructure Pvt. Ltd. and M/s. Rosmerta Technologies Ltd. are concerned. ARAI has stated that it has no role to play in job work and that M/s. Utsav Safety Systems Pvt. Ltd. shall exercise complete control over all security features in its possession and shall be responsible for the use of any security feature on registration plate in the open market either by himself or by any other person on his behalf.

31. In the counter affidavit filed by the Director, CRRI it is stated that CRRI is one of the agencies empowered by law to issue Type Approval Certificate. Consequent to the issuance of the TAC, the CRRI has to undertake the Conformity of Production (CoP) proceedings for every TAC holder. This is to ensure that the HSR Plates so manufactured by the TAC holding companies are indeed in conformity with the conditions of the TAC and the HSRP Scheme.

32. In the counter affidavit filed on behalf of Union of India on 05.09.2014, it has been specifically mentioned that the role of the Union of India is limited to notifying the Rules mandating installation of HSRP on vehicles, notifying the standards and specifications of HSRP and the testing agencies which are to test the plates, type approval of vendors

based on the above specifications and to notify the date of implementation. The Union of India has modified the Standard and Specifications vide 'The Motor Vehicle (New High Security Registration Plates) Order-2001' and has notified the testing agencies also. In the counter affidavit filed by Union of India, it is averred that the implementation of the scheme in accordance with the rules framed by the Union of India and 'The Motor Vehicles (New High Security Registration Plates) Order, 2001' is the responsibility of the States/Union Territories which is being implemented by the respective States.

33. Even though Union of India has stated that the implementation of the scheme in accordance with the rules framed by Union of India is the responsibility of the States/Union Territories, in our view, the Union of India has to ensure that there is regular check of manufacturing units which are engaged in the HSRP project by coordinating with the various States/Union Territories. Likewise, as per the guidelines issued in the letter dated 04.09.2002, it is for ARAI to check the plates as per Annexure-I enclosed with the said letter and that it takes stern action as and when there are violations/deviations.

34. Though we are not inclined to initiate the contempt proceedings yet in order to enable the statutory authorities to keep a control over the implementation of the scheme, it is necessary to issue directions/guidelines for proper implementation of the HSRP Scheme as under :-

- i. The State Governments shall ensure the strict adherence of Rule 50 of CMV Rules and various orders issued by this Court in Writ Petition No. 510 of 2005 and shall ensure that the selected manufactures are able to satisfactorily build the requisite capacity and infrastructure thereby ensuring smooth implementation at the grass root level. The State Governments shall ensure selection and authorisation only of those TAC manufactures who have been financially and technically competent to manufacture and supply the requisite number of HSRP in the State.
- ii. Manufacturing of HSRP starts with the grant of TAC and CoP. Hence, periodic assessment, review and audit by the testing agencies of all the aspects involved in the HSRP product specifications, process compliances and operational procedures in totality is warranted. The testing agencies shall ensure that quality and specifications is not being compromised.
- iii. Furthermore, the HSRP contracts should be awarded pursuant to a transparent tender process. The factors such as topographical and geographical conditions, vehicular population, adequate infrastructure, cost of managing logistics, equipments and human resources etc. must be considered before accepting any bid and entering into the contract.
- iv. The authorized HRSP manufacturer shall not outsource the blank plate manufacturing as job work for the purpose of implementation of terms and condition of the Contract signed. HSRP Scheme should be done by the Concessionaire at the place designated by the State Transport authorities in accordance with the terms and conditions of the Contract and MV Rules/Order.
- v. The authorized manufacturer shall be permitted set up other/additional manufacturing units in accordance with the Acts and Rules. In any event, it is directed that any such other/additional units of Utsav commences manufacturing activity in any other location, due process of law will be followed and necessary approvals would be taken as envisaged under the applicable norms and

requirement flowing from Act, Rules, Order etc. and the Conditions stipulated under respective Tenders, as accepted.

- vi. HSRP manufacturers should carry out all the processes of HSRP project in the plant as indicated in the tender documents, namely:
- (a) purchase of raw materials, such as, reflective sheet, aluminium plate, chromium based hologram, hot stamping black foil film and non-removable snap lock for fixing plates, etc;
 - (b) lamination of reflective sheet having blue endorsement of IND on the aluminium plate;
 - (c) hot stamping of Hologram on the reflective sheet after lamination;
 - (d) stamping of blank plate;
 - (e) edge formation of the plate;
 - (f) etching unique security laser coding number running serially having two allocated alphabets prefixed to the unique number as given in TAC;
 - (g) the selected manufacturers should ensure that every process of the work is being done under its control with the help of trained workers and not to sub-contract or outsource any part of the process of the work to forgo security norms.

Note:- All the above processes ought to be carried out in the plant of the manufacturer as indicated in the tender documents.

- vii. The State Government should ensure that successful bidders or sub-contractors or other parties do not have control over the manufacturing processing and fixation of HSRP in any manner unless authorized under law. It must be ensured that one single person is responsible for manufacturing, affixation of seals, imprinting of numbers and affixation of HSRP on vehicles.
- viii. The record must be maintained by the manufacturer of HSRP as to the number of plates manufactured and made ready everyday alongwith weekly and monthly statements.
- ix. The manufacturing unit must strictly govern and control the implementation of the process of production and fixation of HSRP. All the concerned authorities are directed to look after the aforesaid process being adopted for fixation of HSRPs and State must report back if the violation continues.
- x. The testing agencies along with the team comprising of State level officer (not below the rank of RTO) and one expert as nominated by the Transport Commissioner of

the respective State shall inspect the unit and certify the manufactured HSRP and manufactured HSRP shall leave the factory premises of the manufacturer only after being cleared by the testing agencies.

- xi. The transport officials of the State Government shall ensure that manufacturing units are periodically inspected and ensure compliance of Rule 50 of the CMV Rules and also the terms and conditions of the Contract. Additionally the Central Government should form Committees in collaboration with the State Governments in order to keep regular check on the manufacturing units which are engaged in HSRP project. The manufacturing units must be periodically inspected by the Committee so constituted and report be sent to MoRTH and also to the Transport Commissioner of the concerned State highlighting the compliance or otherwise of Rule 50 of the CMV Rules, the terms and conditions of the contract and also any shortcomings noticed during inspection and suggestions by the team.
- xii. The Central Government and the State Governments should strictly implement HSRP policy in all the States in a time bound manner.
- xiii. The Central Government and the State Governments should register complaints regarding the violation and, in case of violations, both the Central Government and the State Governments should take strict action in accordance with law.
- xiv. The Central Government should create a nationwide common repository of Vehicular Registration Data for achieving the basic objective behind the idea of HSRP scheme and thereby ensuring smooth implementation at the grass root level.
- xv. It is directed that the concerned shall strictly implement the rules and also orders of this Court in letter and spirit and not dilute any standards of HSRP, voluntarily or otherwise. All the authorities must take proactive measures to implement the HSRP Order according to the provisions stated.
- xvi. The HSRP process initiated by States for implementation of the Scheme must be such that even in the case, where parties had bid in the capacity of a consortium or a joint venture, the State are under obligation in respect of tenders floated by the respective states to create a Special Purpose Vehicle which would finally enter into a Concession Agreement, but in any event the State must ensure that entire responsibility of HSRP project would remain with one entity/SPV which would be responsible

for manufacturing, affixation of seals, imprinting of numbers etc. It is directed that Concessionaire would be exclusively responsible for the entire process.

xvii. A specific direction is issued to Additional Commissioner (Traffic) and DCP (Traffic) to organize a special drive and compliance thereto must be recorded.

xviii. The Central Government and State Government are directed to strictly regulate as well as monitor the implementation as per the provisions of law including the provisions of Motor Vehicles (New High Security Registration Plates) Order, 2001 and aforesaid directions issued by this Court.

35. With the above directions and observations, contempt petitions are disposed of. It will not however, prevent the respective States to proceed against M/s. Utsav or the respective SPV for the violation of the terms and conditions of the contract, if any, Rule 50 of the CMV Rules and directions/orders of the respective State Governments.

.....CJI.
(T.S. THAKUR)

JUDGMENT

.....J.
(R.K. AGRAWAL)

.....J.
(R. BANUMATHI)

New Delhi;
July 13, 2016

SUPREME COURT OF INDIA



JUDGMENT