

LEGAL OPINION

**QUERIST:**

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iDisha Info Labs Private Limited  
Aswath Nagar, ChinnapannaHalli,  
Bengaluru - 560037

**FACTS:**

- a. Quick Ride("the Querist") is a car pooling and bike pooling application which facilitates ride sharing by giving a choice to its user either to offer or find rides. Using the Querist, a user can invite people to join a ride or accept invitations from other members who are looking to offer a ride. After completing the ride, the system allows ride taker to share the fuel expenses by transferring fuel points to ride giver
- b. The Querist works on a prepaid points system where points are exchanged between members. There are two types of points on the system:
  - i. For ride taker: A ride taker buys these points by recharging his/her account from the app. A ride taker then transfers these points to the car or bike owner on completion of a ride.
  - ii. For rider/ car owner: Points are transferred to a car owner by the co-riders at the end of every ride as cost sharing for the trip. A car owner can redeem these points at nearby petrol pumps using the Querist's petro card where 1 Point will be equivalent to 1 Rupee.

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- c. The points accumulated can be redeemed for getting fuel at fuel station through Fuel cards that will be issued to a user after the 1<sup>st</sup> encashment.
- d. A user can buy more points by recharging his/her Quick Ride account and choosing the mode of recharge, i.e. Net Banking/Paytm/PayU.
- e. For every successful shared ride, the Querist deducts 6% of the total points as service fee. If the ride-provider wants to provide free service by setting fare per-kilometre to zero, then the Querist will apply 1 point as servicecharge.
- f. The querist main service here is to connect ride giver and ride taker, based on route, time and the individual preferences (Such as company they are working, etc.,)

**QUERY:**

Whether the Querist operates in contravention to the provisions of Section 66 the Motor Vehicles Act, 1988?

**ANSWER TO THE QUERY:**

**The law:**

1. To effectively answer the query that has been raised by the Querist, it is apposite to first examine the relevant provisions of the Motor Vehicles Act, 1988 ("the Act"). Section 66(1) of the Act deals with the necessity for permits. The relevant portion of the said provision is extracted herein below for ready reference:

*"66.Necessity for permits.- (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place*

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*whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used;"*

2. From a reading of the extracted provision it is discernible that the motor vehicle ought not to be used as a transport vehicle except in accordance with the permit that has been granted for its use. This begs the question as to what the meaning of a transport vehicle under the Act is. The answer is found in sub-section 47 of Section 2 of the Act which provides as below:

*"2(47) "transport vehicle" means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle;"*

3. While it is evident that the user of the Querist will not fall under either a goods carriage, an educational institution bus or a private service vehicle, a closer examination in to the meaning of public service vehicle is required. The term "public service vehicle" is defined under sub-section 35 of Section 2 of the Act. The said provision reads as extracted herein below:

*"2(35) "public service vehicle" means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motorcab, contract carriage, and stage carriage;"*

4. In the above definition, what seems to be of relevance here are the terms "hire and reward" and "contract carriage". The term "contract carriage" has been defined as under:

*"2(7) "contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person which a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum--*

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(a) on a time basis, whether or not with reference to any route or distance; or  
(b) from one point to another,  
and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes--  
(i) a maxicab; and  
(ii) a motor cab notwithstanding that separate fares and charged for its passengers;"

5. The definition of contract carriage hinges on the interpretation of "hire" or "reward", which has not been defined in the Act. There are no binding precedents on the interpretation of "hire" or "reward". A non-binding reference can be made to the decision of the Hon'ble High Court of Punjab and Haryana in a full bench decision in the case of Bharat Steel Tubes Ltd. v. State of Haryana reported in ILR (1977) 1 P&H 687 wherein it was held that if there is a carriage of a passenger for a monetary reward, then the same will be deemed to be a contract for reward.

**Present factual matrix:**

6. As per the factual matrix provided to us, the ride takers are merely sharing the cost of travel incurred by the ride giver by sharing fuel costs in the form of points. There is no monetary reward being given to the ride giver. The terms and conditions of use of the platform specifically prohibits exchange of cash or money through Paytm or other wallets. The users may buy and pay through points which can only be used to purchase fuel either through the Querist's petro-card. The payment of petrol points is a voluntary payment and ride takers and ride givers may car pool even for zero points. Since there is no monetary rewards, the question of a contractual obligation to pay does not arise.
7. An analogy can be drawn towards a group of friends agreeing to travel in the same mode of transport to a common destination. In the present case, the ride giver does not alter his/her route or start stop or end stop. The Querist app also matches riders takers and givers with common interests like same office, same tech park, etc.. There is

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no profit motive for the ride giver nor is the ride giver earning any income by sharing his ride with the ride taker.

8. Therefore, in my opinion, the Querist cannot be regarded as a transport vehicle under Section 66 read with Section 2(47) of the Act and consequently does not operate in contravention to the provisions of Section 66 the Act.

Answered accordingly.



GodaRaghavan  
Advocate

Partner, AK Law Chambers