Rule of Law

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[Institutional Affiliation(s)]

Tesla, the intrepid electric car company which is owned by Elon Musk who is a well-known business. Tesla recently drove headfirst into controversy with the newly elected government of Ontario. Nonetheless, it has been witnessed that the Canadian legislative body rarely grant remedies for free-standing any violation of the rule of law, but the result of this collision proved to be a reminder for the government bodies to drive within the specified lines of the existing laws while making the executive decisions. Tesla Motors Canada ULC approached judiciary and asks to intervene to review the decision of the government of excluding Tesla and its customer from the extension. Government gave two months relief to all the electric car buyers who would be buying cars before July 11, 2018. Tesla filed a case against the Ontario government for targeting it unlawfully and without any rational basis. Tesla also claimed that the government did not speak even excluding it from the program, otherwise, it would have shown the Ontario government that excluding Tesla and its customers from the two-month wind-down, are not justified legally on the ground of advancement made by the government. In case, it was argued that the exclusion of Tesla is outside the legitimate reach of the practice of the law in Ontario that governs electric car subsidies.

On July 11, 2018, under Premier Ford's new leadership, the Ontario government announced a wind-down of the subsidy program. According to the program, applications would be accepted from all the dealerships, prospective car owners only if they meet given conditions

* Vehicles delivered to the customer, registered and plated before or on July 11 will get the incentive
* Inventory, dealers have on the orders made by dealerships, manufactured before or on 11 July will be given an incentive, when the vehicle is delivered to customers, registered and plated by September 10.

This statutory discretion “Transition Program” was created and contained largely s. 118 (2) of the Public Transpiration and the Highway Improvement Act. After the announcement, the government said that in order to gather further details, letters would be sent to the dealers to provide details for the transition program, but a setback was given to Tesla in the form of a different letter. The letter sent to Tesla by the Ontario government explained that the Transition Program, would apply only to ordered cars made by the “franchised automobile dealership” and not where the vehicles “have been ordered directly from an original manufacturer by a consumer". Tesla Motors Canada is not a franchised business due to which it was excluded from the program on the basis of the terms of this letter (Jain, 2019). Only Tesla was the motor company that received this letter and around its 600 customers were affected. Tesla also claims that it made unsuccessful attempts, in several occasions, to communicate with the Ministry of Transportation after the government made this announcement.

Ontario government believed that when customers ordered Tesla’s cars directly from the US, that is the parent manufacturer, this makes Tesla get excluded customers from the transition program. However, it seems that the government may not have known that customers usually buy their cars from Tesla Motors Canada ULC, as other car dealers and manufacturers through dealerships, Tesla US sells to Ontario (Hosseini, 2017). Tesla in its case that it filed against the government’s policy and its adoption of the ‘franchised business’ term, caused inconvenience for its customers, as well as, damaged the reputation of Tesla worldwide. One of the main concerns of Tesla presented is that since July 11, 2018, it has suffered the cancellation of around 175 orders. Legitimate concerns of customers and Tesla itself were raised because of the targeting and vilification by the Ontario government. Potential customers will avoid purchasing Tesla’s cars that would ultimately reduce its annual business.

Tesla applied for a judicial review, after believing that it had been singled out for “vilification”. The issue was whether with the decision of setting the terms and conditions of the Transition Program, to exclude Tesla, was permissible under the transportation law, Public Transpiration and Highway Improvement Act. For two months, subsidy was extended for undelivered vehicles (ordered and purchased) except for the vehicles that were sold or made by Tesla. As this issue made it on the news after a case was filed by Tesla against Ontario government, it also made had a voice to reach the Superior Court of Justice. Tesla seeks the help of the higher judicial authorities to review the unlawful practice of the Ontario government by challenging its decisions of excluding Tesla from the transportation program.

Under s. 6 (2), Tesla has applied to the court of the Judicial Review Procedure Act, RSO 1990, c J.1 which allowed Tesla to bring its case before the judge of the Superior Court of Justice, despite waiting to hear from the panel of three judges of the Divisional Court, Tesla approached single judge of the Superior Court of Justice for which it had to prove reason for urgently as it could not wait as the wind-down program was offered for two months only, and Tesla could not wait for that long. For proving its point of urgency, Tesla claimed that government subsidy extension expires on September 10, 2018. For filling around 600 vehicle orders, Tesla had hundreds of cars to be sent to Ontario that were outstanding on the July 11, 2018 cutoff date. Tesla also claimed that harm could be possibly measured to Tesla and its customers in dollars and cents if the Ontario government acted illegally, therefore, without delaying this case, this harm could be prevented altogether by hearing the case as soon as possible.

It could be harming for the 600 customers and Tesla if the matter is not resolved in real-time. This program of government is unlawful so it is better to amend it to avoid the creation of urgency for hundreds of orders’ cancellation, litigation and utmost damage to Tesla's goodwill. Rights of every customer and Tesla could be possibly vindicated if the damages are claimed with promptness as taking long would harm and would seem like the failure of the judiciary in providing justice as simply resolving the matter before the program's deadline would be beneficial for all. On the other hand, legal agents of the Province of Ontario, argued that the matter was not as urgent as it was claimed but Tesla was all prepared to argue the case on its merits. For years, Ontario had been launching such programs under various environmental regulations and statutes for promoting the zero-emission motor vehicles subsidies which could be paid directly to the sellers and are passed on to the customers. Most recently, applicable programs were funded through “cap and trade” tax revenues.

Generally, courts hesitate to interfere in the decision taken by the governments but in this clash of Tesla and Ontario, the judiciary did not show any hesitation because they believe it is its role as a guardian of the rule of law. In a statement by Tesla, it was said: "The decision has already inflicted sustainable harm on Tesla Canada in the form of loss of sales and the creation of an impression among Ontario that Tesla Canada may be singled out for the future arbitrary treatment under the law." Tesla refused to back down from raising a challenge and sued the Ontario government claiming that the province treated it unfairly, as customers of other manufacturers were announced to be eligible for getting their rebate during the period of transition.

Justice Myers analyzed the case and noted the action taken by the Ontario government and doubted that it does not exist spectrum ranging from “high policy” which was justified. He further added that in order to mundane executive decisions which mainly affect “rights or the legitimate expectations of individual”. Myers also assured that the court will review, where the action was taken "for an improper reason or without affording the applicant procedural fairness”. The issue of “improper purpose” was focused by Justice and also harked back into the Canadian administrative law and the cornerstone case, Roncarelli v Duplessis case. While analyzing this case that was filed by Tesla, Justice Myers found that Ontario’s Minister of Transport acted arbitrarily and excluding Tesla from this program of subsidy extension seemed irrelevant to the purpose. From the evidence, it is proven that the Ford Government expressed intentional hostility toward Tesla and tried to exclude it from the extension that would benefit it and its customers. Though the Premier had complained about subsidizing Tesla's billionaire buddies at the expense of the diligent and hardworking people of Ontario.

Justice Myers avoided relying on the evidence provided by animus. Justice Myers also cited Roncarelli for holding the exercise of discretion that was unlawful as it has been “taken for an improper purpose”. For making the situation worse, no opportunity was given to Tesla of the fair process so that they could let the authorities know what they were going through. Tesla also requested the Ontario Superior Court to review the "arbitrary and entirely unreasonable" move that was intentionally made by Ford.

Considering all the aspects of this extension program and claim presented by Tesla, Superior Court Justice Frederick Myers went on to the rule that Tesla's claim was right and it is correct in stating that they are treated unfairly by the Ontario government. While giving his final judgment regarding the case filed by Tesla, in the 17-page, Myers wrote “If the government wants to transition out, the electric car subsidy program, (Transportation Minister) John Yakabuski must exercise his operational discretion in a lawful manner” Myers also criticized the Minister for his unlawful practices for discretion to implement the transition program. Finally, Myers ruling includes an order that Ontario must pay $125,000 to Tesla, though it asks for $185,000 to cover its legal cost and the financial loss that it suffered because its customer mistrusted and canceled many of the vehicle orders. Myers helped Tesla by providing it with a lawful decision that was based on the pillar that every country’s legal system rests upon.

Keeping in consideration, all the perspective given by Tesla, it could be seen that there are Minister did injustice with Tesla and said nothing about the franchise dealers and with giving any reasonable basis excluded Tesla. The way Tesla was treated by the in the extension program shows the biased attitude of the Minister and Ford, but the way Tesla struggled and filed its case in front of the higher authorities depicts that law must look upon every individual and institution equally. Tesla was concerned about its reputation and focused on the areas that higher authorities could look upon for delivering back its right that it should be given months back.

Rule of law is one of the main things that keeps a country on the right track and makes the public realize that in the eye of the law, all the individuals and institutions are equal. All the institutions and people are accountable to the law, whether they are working fairly or not. Ensuring that law is fairly applied and enforced seems to the principle duty of the nation and all the legislative bodies that are running all the institutions to maintain peace in the society. Rule of law restricts arbitrary exercising of the powers as it subordinates the institutions by defining and establishing laws (Serrai, et al, 2020). Taking a look at the action that Tesla took against the Ontario government, it won't be wrong to say that Tesla's case reminds people and institutions that politics should not distort the smooth economy of the country, and just let the economy ride alone with interfering. From the Tesla case, it has been witnessed that all the institutions whether it is legislative body or politics all are the subordinates of the rule which does not allow any of the institutions or persons to over-rule the law for its benefit or harming others on a personal basis.

Governments and political interference could threaten the people and institution but it is the rule of law that keeps an eye on all the affairs. Unwritten constitutional principles and the application of the statutes may assist the government is violating the rule of law, but it is the duty of the higher authorities and judiciary to have a check and balance over the governments where they are following the rule of law. Filing of the case against the Ontario government of Tesla and getting off the ears of the Superior Court is one of the best practical examples, power of rule of law that does not let any of the institution or politics override the laws that would treat all equally.

Rule of law reflects that there is something much more important than the political statements and if one tries to go beyond the given authorization, could be approached for claiming one’s rights, just as Tesla did. Tesla after reviewing its position legally challenged the decision of government and clashed between the two entities (private enterprise and Ontario government). After the matter was under the supervision of the Superior Court, it was found that no legislative act could exclude a person or a business from any of the programs without express language, be taken to contemplate an unlimited arbitrary power exercisable, used for fulfilling any purpose. From this clash between private enterprise and the government, it could be observed that the rule of law is there to protect people from decisions that they considered were unlawful. The executive body is there to provide, and for claiming the right, the executive privilege could be claimed, just as was done by Tesla, so that decisions taken by the government could be reviewed, whether they are harming the rights of others or not.

Running a country needs different bodies to work so that the smooth functioning of the system could be ensured. Governments play an important role as they provide leadership, maintain order, provide public services, help in making the national security policies, and provides economic security by assisting the institutions. The government promotes the union as it forms the policies that are expected to be followed by every department and secures the liberty of the organizations and individuals. Governments change and along with this, each of the governments try to bring uniqueness in their own working. Ontario government, like all governments, needs to be checked. The rule of law is the only support that constraints by limiting the exercising powers of the government as an excess of power which, in turn, leads to corruption of power. Rule of law checks the exercising power of the government and constraints the government by measuring the extent to which a government is bound by the law, both institutionally and constitutionally.

It is the rule of law that governs and restricts the working and decisions of the governments and could launch accountability programs against them under the law. Governments and their agents are limited as non-government checks are done on the government’s powers of how they are exercising the powers given to them. In this case, it could be seen that Tesla’s claim that the government treated it unfairly by excluding it from the extension program. An investigation of this case, shows that the government was trying to override the powers which it was granted. The advancement of Tesla to the judicial institutions shows that reviewing the decision of the Ontario government made even the supposedly top entity also restricted itself under the law.

The winning of the court challenge of Tesla against the provincial government is the perfect expression of the rule of law as it has been witnessed that Tesla won because of the dominance of the rule of law (Brownsword, 2019). Law treats all the authorities and common ones alike, because their powers are restricted due to the presence of the rule of law. Rule of law includes certain sub-factors that control the way government acts. Though, the legislature is one of the main elements that restrict the exercising powers of the government, yet, government powers are effectively limited by the judiciary. This case of a clash between Tesla and government is the expression of rule of law as the judiciary reviewed all the points presented by both the parties equally.

The Superior Court criticized divisional authorities for not hearing the legal concerns of Tesla that it had against the decision of excluding it from the list of private vehicle manufacturers. Provision of justice, immediately after filing of the case by Tesla and reviewing by the Superior Court shows an expression of the rule of law, as a private company won justice against the government for over-exercising its power. This case shows that rule of law is the main thing that over-power all the factors, as not only the decision of government was reviewed and the Ministry of Transportation was criticized, but also the victim of unjust treatment was compensated by commanding the government to pay Tesla the money so that it could recover financial damages that it suffered because of being excluded from this extension period.

Rule of law mainly deals with accountability, just laws, open government and deals with impartial disputes, etc. Tesla was capable of claiming its legal rights as it believes that the government and especially the Ministry of Transportation was biased when not giving any sound reason why it excluded Tesla out of the list, but reaching to the judiciary and dragging the attention of the whole system towards the unjust treatment, is the expression of the rule of law. Tesla first succeeded in proving the urgency of the matter which also reflects that even the state government that seems to be one of the most powerful bodies could be challenged if the rule of law dominates a country. Canada and the judiciary proved that law is the only thing that has the legal right to restrict the exercising of the powers as it interferes when something illegal is witnessed.

Checking and preventing the arbitrary use of the government power is one of the main functions of the rule of law and in the case, it has been clearly seen that the government when tried to get indulge in arbitrary practices, rule of law came into play and reviewed the decisions taken by the government (Auerbach, et al, 2017). The decision was challenged by a private vehicle company, as the government excluded Tesla from the list of the companies basing its decision of the environmental concerns, the government actually ignored the statutory framework which was developed so that environmental issues could be looked upon.

This case and the provision of justice to Tesla against the Ontario government is the expression of rule of law as rule of law is implied for creating the laws, enforcing them and building relationships among the legal rules which are themselves regulated, so that law and justice could be placed at the topic. In this case, the rule of law is the only thing that helped Tesla in getting compensation for being omitted from the extension period. The legal constraint against the high authorities and governments keeps them in bound so that these institutions, departments, and entities could be kept away from any sort of corruption. Power could distract people easily who have it and the same things have been witnessed in this case where Tesla was treated indifferently than the rest of the vehicle companies, due to which it suffered a lot. Interference of the judiciary in the government-related issues shows that there is some high authority who has a check and balance over the decisions taken by the government and this provides confidence to the citizens. The service of justice to Tesla is the expression and practical example of the rule of law which shows that government agents who take decisions against the organization, individuals and institutions could be challenged for seeking justice if they do injustice and unfairness with anyone.

Criticizing the Ontario government over its decision and then orders by the Superior Court, Justice Myers to pay back to Tesla shows that the government is allowed to do whatever it thinks is right rather it has to provide legal evidence for proving why a certain decision is being taken. So, as a whole, it could be said that this decision of the Superior Court is the expression of rule of law as it defeated the government’s unfair and illegal decision by giving Tesla its right in the form of compensation. This decision serves a cautionary tale not only for the Ontario government but for other governments as well. Rule of law is there to protect individuals, organizations, and institutions if discretionary decisions would be made that may impact reasonable expectations and rights of people and businesses as everything is connected for the statutory purpose under which all the decisions would be made. Improper purposes could be challenged as the rule of law makes people realize that they all are equal with respect to justice, and legally. A mistake was committed by the Ontario government when without any sound reason, it excluded Tesla from the extension period as it underestimated the power of rule of law which is meant to restrict the government and its policies so that others could be saved from any injustice and constitutional harm.

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