

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) No. 16565/2006

26.03.2007

Judgment delivered on : March 26, 2007

Court on its motion

Versus

Union of India and Ors.....Respondents

Mr. Rajiv Awasthi, Amicus Curiae.

Mr. Ajay Verma, Adv., for the DTC.

Mr. J.R. Midha, Standing Counsel, along with Ms. Zubeda Begum for respondent/GNCTD.

Mr. Suresh Kait for UOI.

AND

W.P.(CrI.) No. 207/2004

Court on its motion

Versus

State....Respondents

through: Mr. Rajiv Awasthi, Amicus Curiae.

Mr. Ajay Verma, Adv., for the DTC.

Mr. J.R. Midha, Standing Counsel, along with Ms. Zubeda Begum for respondent/GNCTD.

Mr. Suresh Kait for UOI.

CORAM :

HON'BLE MR. JUSTICE SWATANTER KUMAR

HON'BLE MR. JUSTICE H.R. MALHOTRA

1. Whether reporters of local paper may be allowed to see the judgment? Yes
2. To be referred to the reporter or not? Yes
3. Whether the judgment should be referred in the Digest? Yes

SWATANTER KUMAR, J. (ORAL)

Certain submissions were made during the pronouncement of the judgment on behalf of various authorities and particularly the Government of NCT of Delhi and Union of India, praying for issuance of certain further directions to put the matter beyond ambiguity and to fix the responsibility of concerned departments.

We are of the considered view that in order to ensure complete implementation of the directions and also not to pass orders, which would come in conflict with the orders passed by the other Courts, we also issue the following directions :-

(i) The competent authority shall notify proper speed limits for different routes. Till such notification is issued, the speed limit for roads inside Delhi would be 45-50 kms per hour while in respect of the roads having 3-4 lane dual carriage, the speed would be 55 kms-60 kms. per hour. This will be the speed limit for light motor vehicles, while for heavy motor vehicles, it would be 35-40 kms. per hours in Delhi city and for the roads having 3-4 lane dual carriage, the speed would be 45-50 kms. Once the notification is issued by the competent authority, after taking into consideration the recommendations of the Committee appointed under this judgment, this direction of the Court would be deemed to be ineffective.

(ii) The Committee constituted for framing the time table shall take into consideration the above speed limit while fixing the time for arrival and departure of buses from their respective destinations.

(iii) It has been mentioned by the learned counsel appearing for the Government of NCT of Delhi that in furtherance to the orders passed by the High Court in another writ petition, the appropriate authority had invited tenders and have now permitted the successful tenderer to purchase 15 buses, which are not low floor buses. It is also mentioned that these buses will have a very limited route i.e. within Chandni Chowk area and will be slow speed CNG buses. They have been introduced primarily with the object to completely remove cycle- rickshaw from the roads in Chandni Chowk area. In view of the above exceptional circumstances and the fact that these buses have already been purchased, as one time concession, we permit these buses to ply only in Chandni Chowk Area. Henceforth, all concerned authorities and Delhi Administration would be bound by the directions contained in the judgment.

(iv) The bus-bays will be the collective responsibility of the DTC, the road constructing agencies including MCD/NDMC/PWD. We make it clear that they would act collectively and ensure that inter-departmental problems are not permitted to obstruct the compliance of the directions issued by the Court. Senior most Officers of these departments shall meet and prepare one time-limit scheme for construction of bus stands with bus-bays within two weeks from today.

(v) The enforcing agencies, particularly the traffic police shall ensure that vehicles, which are not registered in Delhi and are plying in Delhi, are also effectively challaned, if they violate any of the directions contained in this judgment.

(vi) The Joint Secretary, Ministry of Home, Govt. of India shall also be the member of the Committee constituted to examine the perception of threat of security.

(vii) All the Committees constituted under the judgment and this order shall hold a collective meeting on 2nd April, 2007 in the office of the senior-most officer, who is member of any or all the Committees. This joint meeting shall decide the entire course of action for strict adherence and compliance to the directions contained in the judgment and in this order. Minutes of the Committee should be sent to the Registrar General of this Court immediately thereafter.

(viii) Counsel appearing for different parties have also stated that to make the challaning more effective and practical, the administration should empower the Head Constable to challan the vehicles. We direct the competent authority in the Govt. of NCT of Delhi to consider this aspect and take appropriate steps in accordance with law.

Copy of the judgment be given to counsel for the parties.

SWATANTER KUMAR, J.

H.R. MALHOTRA, J.
MARCH 26, 2007

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) No. 16565/2006

Judgment reserved on: March 19, 2007

Judgment delivered on : March 26, 2007

Court on its motion

Versus

Union of India and Ors.Respondents

through: Mr. Gopal Subramaniam, ASG, Amicus Curiae, with Mr. Aman Ahluwalia, Adv.

Mr. Rajiv Awasthi, Adv., for the petitioner.

Mr. Ajay Verma, Adv., for the DTC.

Mr. J.R. Midha, Standing Counsel, with Mr. Niraj Singh and Mr. Amandeep Joshi, Advocates, for the respondent/GNCTD

Ms.Zubeda Begum with Ms. Garima Sharma and Ms. Iram Majid, Adv., for the GNCT.

Mr. Ankur Jain, Adv., for the State.

Mr. Rajesh Mahajan, Mr. Arjun Pant, Adv., for the NDMC.

Mr. Ajay Arora, Standing Counsel, for the MCD.

Mr. R.K. Kapur and Mr. Mukesh Verma, Adv., for the Private Bus Operators.

AND

W.P.(Crl.) No. 207/2004

Court on its motion

Versus

StateRespondents

through: Mr. Gopal Subramaniam, ASG, Amicus Curiae, with Mr. Aman Ahluwalia, Adv.

Mr. Rajiv Awasthi, Adv., for the petitioner.

Mr. Ajay Verma, Adv., for the DTC.

Mr. J.R. Midha, Standing Counsel, with Mr. Niraj Singh and Mr. Amandeep Joshi, Advocates, for the respondent/GNCTD

Ms. Zubeda Begum with Ms. Garima Sharma and Ms. Iram Majid, Adv., for the GNCT.

Mr. Ankur Jain, Adv., for the State.

Mr. Rajesh Mahajan, Mr. Arjun Pant, Adv., for the NDMC.

Mr. Ajay Arora, Standing Counsel, for the MCD.

Mr. R.K. Kapur and Mr. Mukesh Verma, Adv., for the Private Bus Operators.

CORAM :

HON'BLE MR. JUSTICE SWATANTER KUMAR

HON'BLE MR. JUSTICE H.R. MALHOTRA

1. Whether reporters of local paper may be allowed to see the judgment? Yes
2. To be referred to the reporter or not? Yes
3. Whether the judgment should be referred in the Digest? Yes

SWATANTER KUMAR, J.

1. Immense influx of light and heavy vehicular traffic with tremendous increase in population of Delhi have made the roads of Delhi increasingly dangerous to human life. Where a common man; a cyclist; a motor cyclist or a pedestrian is often knocked down by the DTC, blue line bus or other heavy vehicles plying on the roads of Delhi, there the richer section of the society meets with fatal accidents as a result of rash and negligent driving. Statistics show no decline in traffic offences. From 1.1.2006 to 31.10.2006, 13535 blue line buses were challaned for violation of rules of lane driving, wrong overtaking, without speed governance and sudden stopping in the middle of the road and at places where there is no bus stand. 14260 blue line vehicles were impounded for violations. These statistics only show a drop in the ocean in traffic offences and accidents involving two-wheelers, cyclists, light motor vehicles and other heavy motor vehicles. This pathetic state of affairs and continuously growing danger to human lives on roads of Delhi has been a matter of judicial concern for a number of years now. Various directions were issued by the Supreme Court in the cases of M.C. Mehta vs. Union of India and Ors. (1997) 8 Supreme Court Cases 770 and (1998)1 Supreme Court Cases 676, Communist party of India (M) vs. Bharat Kumar (1998) 1 Supreme Court Cases 201, M.K. Chandran and etc. vs. Commissioner of Police, Kochi and others AIR 1998 Kerala 347; Suman Doval vs. Union of India and Ors. 1993 IV AD (Delhi) 981, Chandigarh Administration and Ors. vs. Namit Kumar and Ors. AIR 2005 Supreme Court 1386, Darshan Singh vs. Union of India SLP (Civil) NO. 5398-90/94 etc. Even in relation to other surrounding States, the Supreme Court had passed certain directions in the case of Namit Kumar and Ors. (supra).

2. Despite such specific orders of the Court over the years, there has been lack of will in implementation of such directions. Despite the fact that roads of Delhi are being made better, it has not helped to considerably check or reduce the traffic offences. The control of traffic in NCR and NCT, Delhi, is a matter of paramount public safety and, therefore, is evidently within the ambit of Article 21 of the Constitution.

3. The concern of the Courts for loss of human life, governmental property has been reflected in its various judgments. Whatever be the reason and excuse but fact of the matter is that the multi-dimensional progress is not being aligned by the progressive

checks and balances in regard to adherence to traffic regulations and maintenance of proper vehicular discipline. All these developments coupled with the reporting made in The Times of India “Bluelines : No Line of Control; Thin line between life and death; Delhi's killer buses have not changed their colour after getting a new name....” persuaded a Division Bench of this Court consisting of Hon'ble Mr. Justice Mukul Mudgal and Hon'ble Mr. Justice J.P. Singh to take suo moto action. After issuance of notice, Mr. Gopal Subramaniam, Additional Solicitor General of India, was kind to offer his service as Amicus Curiae to assist the Court in this very important field of law relating to ground realities of traffic violations.

4. There has to be a definite improvement in all the three modes of adherence to traffic regulations by the traffic police i.e. static, mobile and electronic.

5. Alarming number of fatal and other accidents is a matter of great concern not only for the Society but for all the three organs of the State i.e. the Legislature, the Executive and the Judiciary. The magnitude of this problem is a menace. Despite multidimensional improvements in roads, construction of fly-overs and even introduction of mass commutation systems, the problem still is very grave. The extent of gravity is reflected by the statistics placed by the concerned authorities on the records of the Court. The same reads as under:-

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6. The above statistics relate to the cases which have come to the knowledge and notice of the authorities and there may be cases which are not reported to the police in addition to these figures.

7. Jumping of red lights, overtaking from the wrong side, driving the vehicles at high/excessive speed, wrong-lane driving, smoking while driving, blowing of pressure/musical horns, creating undesirable sounds, sudden stopping and parking of buses on the main roads even if the bus-bay was available, racing between buses of the DTC and private operators and inter se private bus operators for making more money, driving of two-wheelers without helmets, driving of two-wheelers like snake i.e. overtaking from right, then left and again right that too at a high speed, using of sirens and using of black films which completely stop or substantially obstruct visibility inside the cars, are a few amongst many of the commonly committed traffic offences. These offences not only endanger the life of the common man driving or walking on the roads but also are the source of major heinous crimes, particularly against women and children. Despite the fact that all concerned authorities including the police, admit the use of such black filmed vehicles in propagation of major crimes but still they are not able to prevent their user despite the fact that it also offends the provisions of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') and The Central Motor Vehicles Rules, 1989 (hereinafter referred to as 'the Rules'). It is the obligation of the State to control and prevent commission of traffic offences primarily to make the traffic of Delhi better organised and to prevent fatal or other accidents which adversely effect the Society at large.

8. Rule 100 of the Rules requires that every vehicle has to have a safety glass that is conforming to the specifications of the Bureau of Indian Standards or any other International Standards and the glass which is on the front windscreen and the rear window of a vehicle, is expected to have visual transmission of light not less than 70%, while the glass of side windows is to have not less than 50% transparency conforming to the Indian Standards. The front screen is expected to be of laminated safety glass. There is no provision under the Act or the Rules which contemplates the use of the films on glass of the vehicle. The glasses which are normally known as 'tinted glasses' cannot be called 'tinted glasses' by virtue of use of films but the manufacturer has to produce such glasses. The manufacturers are producing cars with 'tinted glasses', which are required to pass the test/inspection by the competent authorities as well as are required to get clearance from the technical committees constituted in accordance with law. Thus, use of black films is prohibited by law and what is impermissible to be achieved directly, cannot be achieved indirectly. The authorities and the traffic police are required to strictly enforce this condition.

9. Besides that it offends the law, use of black films has a very serious and dangerous consequence even in the field of crime. It is a common knowledge that the cars or vehicles involved in commission of heinous crimes like kidnapping, abducting, rape and other serious offences, normally carry jet black films, thus, totally preventing the offenders from being seen/identified by any person on the road.

10. During the course of hearing, the learned counsel appearing for the various authorities accepted this position. What is more important is that the Additional Commissioner of Delhi Police, Incharge of Traffic, who appeared in the Court, fairly stated that majority of the cars/vehicles involved in commission of crimes use the black films through which it is impossible to see inside the cars even from a very close distance. Lack of will to enforce this condition has resulted in serious prejudice to all concerned though it might have proved as a boon for the criminals.

11. Another aspect of this traffic offence is that the authorities are required to allow use of black films for security reasons, particularly in relation to the persons to whom high security is provided for their protection. This obviously being restricted to a very limited class of society, cannot, therefore, be permitted to defeat the law as well as endanger the life of a common man, particularly the women and children. Due provisions need to be made/amended and we hereby constitute a Special Committee of which Home Secretary, Delhi, Additional Commissioner of Police (Security) and Additional Commissioner Police (Traffic), shall be the members. This Special Committee shall examine the perception of threat of security to any person, who applies to the Committee for grant of permission to use black films on the car. We do hope that the Special Committee shall use its discretion discreetly and in genuine cases. The Committee shall issue a certificate under its seal, which shall be kept in the official car of the person to whom such permission is granted. No vehicle, to whomsoever it may belong, would have the black films on the glass/screen of the car, unless it has specific permission of the concerned authority, bearing the car number as well. All other cars/vehicles are hereby prohibited from using the black films of any transparency on their cars. We may also refer that

similar orders were passed by different courts in the country and the Supreme Court in the case of Chandigarh Administration and others vs. Namit Kumar and ors. AIR 2005 Supreme Court 1386 has upheld such an order and directed as under:-

“16. One other direction which has been assailed relates to the use of black films on the glasses. It is submitted that Central Motor Vehicles Rules, 1989 (in short 'Central Rules') provide for the measure to be taken in such cases. We find that sub-rule (20 of Rule 100 of the said Rules deals with the issue. We, therefore, modify the direction of the High Court to the extent that while carrying out the directions, the mandate of sub-rule (2) of Rule 100 shall be kept in view. This shall be in addition to any security requirement as may be laid down by the law and order enforcing agencies.”

12. Thus, we are of the considered view that this direction needs to be enforced vigorously by the Enforcing Agencies.

13. Rule 108 of the Rules opens with a negative language to say that no motor vehicle shall show a red light to the front side of the car or any other coloured light, except using of the red light at the back of the vehicle. Use of red light on front or top of the car has become more of a fashion than an official requirement. In terms of the Rules, government vehicles of high dignitaries as specified by the Central or State Government is permitted to use such lights, that too on the official vehicle only. It was stated before us that the government had issued a notification specifying the persons permitted to use such red lights, but for the persons for whom such a notification is issued, no other cars other than official car is permitted to use such red lights. As of today, majority of the cars, private or official, carry the red lights in front or on top of the roof of the car, which is again violative of the basic provisions. It is expected of the authorities concerned to ensure that no official car of any person or dignitary other than the one specified by the Administration vide its notification, displays the red light. Furthermore, the red light should be displayed only when the dignitary, who is covered under the notification, is in the car, otherwise the red light should be covered and not displayed.

HORNS

14. The framers of the Rules took care of not permitting the vehicles to use horns except an electric horn or other devices conforming to IS: 1884-1942 on the vehicles. The extent of concern is further exhibited by the provisions of Rule 119 (2) of the CMV Rules, 1989 wherein restriction was placed on using of multi-toned horns giving a succession of different tones or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise. The above restriction was also placed on the official vehicles. This concern of the Legislature has been brought to a halt and has been rendered ineffective by the sheer negligence on the part of the concerned authorities. One fails to understand as to how the vehicles can be permitted to use pressure or musical horns, much less carry sirens. This again is a matter of common knowledge that the vehicles including cars, buses and trucks are using pressure horns or other devices, which results in producing unduly harsh, shrill and loud sound which itself is a nuisance for the other vehicles and the residents of the area through which such vehicles pass. Every manufacture of the vehicle as well as the registered owner of the vehicle owe an

obligation that their vehicle does not offend any specified standards and the basic provisions of law. Just because number of people are using such devices would be no ground for the court to condone such offences and permit their re-occurrence. Even the Government vehicles some times are carrying horns or devices, which are patently offending the Law. The State and its departments are under a greater obligation to obey the Law and not to take undue advantage to commit traffic offences just because the vehicles are that of the State itself. The vehicles having musical pressure horns or other devices including siren besides offending the law, are also noise- pollutant and a nuisance in themselves. No person driving the vehicle has any right in law to cause distress or inconvenience to the other persons driving on the roads. A very common site on Delhi roads is that the buses, other heavy vehicles or even cars which have such devices, get so closer to the other vehicles and then loudly blow the sound which is harsh, shrill and kind of an alarming noise and disturb the driver of the other vehicles and such repeated acts can even lead to accidents on the road. Therefore, it is obligatory upon the various departments of the State as well as the enforcing agencies to ensure that the Law is obeyed by all concerned and its enforcement should be effective.

15. Consequently, we issue a direction that all the vehicles whether light/heavy/two wheelers etc. on the road will not have any other horn except an electric horn in accordance with the prescribed standards afore-noticed. In other words, no vehicle shall be fitted with and blow pressure horn, musical horn or use any such other device producing shrill, loud or musical noise. Any offender, irrespective of the fact as to who is the owner of the vehicle, shall be challaned and fined in accordance with the law henceforth. The DTC and State Transport Authority shall issue a circular clearly stipulating therein that no vehicle would be registered or granted permit in the event it offends this direction and provisions of Rule 119 of the Rules. The Government of NCT of Delhi and Delhi Police which are main enforcing agencies would be entitled to remove the pressure horn or any other offending horns from the vehicles, as if these offending parts are permitted to be used on the vehicles, there is every likelihood of offence being repeatedly committed.

FINES

16. The punishment for offences is intended to achieve a dual object. Firstly, to punish the offender and secondly and more significantly, to prevent commission of such offence by others as well as that offender. The fines imposed under the Motor Vehicles Act and Rules and as specified in the Schedule, are of an amount which hardly operates as a deterrent or a successful preventive attempt in this regard. The hard fact is that the value of money has fallen rapidly and a fine of Rs. 100/- or so, is a fine which no offender would mind paying. On the contrary, despite being an offender, he is able to avoid even the trial because of the power vested in the Challaning Officer of charging the composition fee. The gravity of the offences particularly offences like jumping the red light, over speeding, rash and negligent driving, has lost its impact because of very low fines. Of course, it was informed to the court that the Central Government and the State Governments are considering the aspect of enhancing the fine limit. But this has been happening for years together and the delay is bound to defeat the very purpose of this Legislation as more and more accidents resulting in deaths would keep on occurring and

more and more offenders would repeatedly flout the Law. The provisions of the Motor Vehicles Act and the Rules, provide for different punishment of fines and imprisonment for different offences. The number of persons challaned by the police for jumping red light or over- speeding for the year 2006 are 2,83,457 and 1,72,298 respectively which itself shows the gravity of this menace and repetitiveness commission of traffic offences. This is only a drop in the ocean. Is it not obligatory upon the enforcement agencies to take stock of the things, act with wisdom and ensure effective obedience of law? The authorities cannot take shelter of different excuses to enforce the Law, which is their primary duty and they ought to do whatever lawfully is necessary to sub-serve the purpose of the Legislation. During the course of hearing, we were told that the Government is incurring huge expenditure on improving the traffic system on the roads and particularly on installation of cameras, speed sensors and other gadgets for catching the offenders. We were informed that at nine locations in Delhi, 36 cameras have been fixed for catching the offenders jumping the red light and four dummy cameras have also been fixed which have already costed the Government more than Rs. 16 crores. It may be noticed that one camera for this purpose, costed the Government, at the relevant time, nearly Rs. 49 lakhs which of course, with the passage of time and improvement in the technology of cameras, has become little cheaper. The authorities plan to install cameras at nearly 500 locations in Delhi, the cost of which is bound to be immense. Such huge expenditure by the Government is obviously for catching the offenders of only one class i.e. the persons who jump the red light. Is it logically and socially fair that the public money should be spent for providing gadgets for catching these offenders because of obvious lack of man- power and other limitations of the State? The expenditure indicated above is only for installation purposes of such equipments and the expenditure to be incurred for their effective maintenance is another big liability on the part of the State. May be the court and the officer empowered to challan in terms of the notifications issued under the provisions of the Act, cannot obviously enhance the fine legislatively provided but certainly the cost can be made part of the compounding/composition fee. This has a direct nexus to the offence being committed. The law as we have already said, is preventive as well as punitive. During the course of hearing, the reference was made to the judgment of the Supreme Court in the case of P. Ratnakar Rao and others v. Govt. of A.P. and others (1996) 5 SCC 359 wherein the Supreme Court did indicate that Section 200 of the Act gives power to the authorized officer to compound the offences punishable under the provisions enumerated in sub-section (1) thereof and Section 194 empowers the officer either before or after the institution of the proceedings for prosecution, to compound such an offence for such amount as the State Government by notification, may specify in this behalf. Of course, in the judgment, it was also indicated that the compounding fee or the composition fee should normally be within the limits of the fine of the charging Section. What is most significant in the dictum of the Supreme Court is ?the same cannot be declared to be either exorbitant or irrational or bereft of guidance?. What is more pertinent is that the rationale or reasonableness of the amount of composition fee is the precept of its fixation. Purpose of punitive law can hardly be achieved by providing such an interpretation, which would frustrate the very purpose of the Law and make the innocent public suffer for such offenders for whom to jump the red light or commit such other allied offences is a fun. Reference can usefully be made to the provisions of Section 359 of the Criminal Procedure Code wherein if a complaint of a

non-cognizable offence is made to Court, the Court if convicts the accused, may in addition to the penalty, order him to pay the complainant the cost incurred by him and in default pass such appropriate orders in accordance with the said provision. The State which is incurring such huge expenditure in the larger interest of the public and for checking and controlling the traffic offences, should be permitted to recover its amounts as a part of the composition fee. The composition fee may be equivalent to the prescribed fine under the penal Section, but the element of cost can always be recovered. The high cost incurred by the State in deploying Forces, installing cameras, machines, sensors and other arrangements for detection of these offences seen in light of the fact that the offenders make a choice of paying composition fee to avoid the trial before the court, would justify imposition and recovery of such costs. The punitive law per se does not exist for convenience of the offenders and, that too, at the cost of the common man. This will be necessary and in fact obligatory upon the part of the State to make recovery of such dues which can easily be done over a limited period of time. The cost incurred on providing these sophisticated equipments, sensors and cameras can be recovered by addition of a reasonable cost to the compounding fee and/or claiming its costs during the trial. It is not only installation of these equipments but also deployment of Force, improvement of traffic systems, maintenance of different machines, equipments and even to some extent, the roads which are damaged because of the accidents etc. on the road. The element of costs, if not wholly, at least partially and that too for some period, should be recovered and the offenders must be made to suffer this. Another provision which can be of some useful reference is the provision of Section 179 of the Motor Vehicles Act which empowers the competent authorities to issue lawful directions for implementation of the provisions of the Act. A person who willfully disobeys such lawful directions, has to pay a fine of Rs. 500/- obviously in addition to the punishment prescribed for commission of such an offence. The requirements of law, thus, do not, in any way, prohibit addition of cost element to be part of the compounding fee or the composition fee. In fact, the compounding fee on a rationale basis, itself could be enhanced.

17. The amicus curiae held meetings with the high officers of the concerned departments of Govt. of NCT of Delhi, Police and even the Union of India. Even that Committee has recommended that there should be considerable increase in the quantum of fine and suggested that the fine for disregarding a red light should be enhanced to Rs. 1,000/-, which is presently Rs. 100/-.

18. In view of this, we have no hesitation in directing and permitting the State to recover the element of cost as part of the composition/compounding fee and it would charge Rs. 500/- as costs from every offender for each offence he commits under the provisions of the Act and the Rules. This amount obviously would be in addition to the fine prescribed for that offence, as well as the offences mentioned in the general provisions of Section 177 of the Act, which deals with all fines for which no particular penalty is specified.

LANE DRIVING

19. Every driver of a vehicle is expected to drive and maintain 'proper lane driving system' on the roads. The buses should ply in the bus lane and should be parked at the bus-bays on the bus stands and wherever bus stands do not have proper bus-bays then

they should be parked at the extreme left of the road and in a queue. Most of the roads are wide enough to maintain the lane system and the greatest offenders of this system are the buses and the two wheelers.

20. Thus, the enforcing agencies would ensure that lane driving is strictly adhered to on the roads of Delhi and nobody is permitted to breach the lane driving and proper parking by the buses. The authorities should ensure that bars are fixed wherever there are turns and no person driving in the central lane is permitted to come to the right lane, wherever the right turn is permissible. Due demarcation of lane system by painting yellow and white marks on the road, be done which would distinctively identify the 'no over taking zone'. It is very important for the proper flow of traffic that no over-taking zone areas are created and marked clearly and distinctively. The authorities would deploy Forces on the particular sections of the ring road and take zones declared by the MCD as the basis for their operation. The officers appearing before the court had fairly conceded that it would be better to concentrate on zone-basis as they have limited man power. Better utilization of man power can be done by concentrating on zones rather than spreading the force all over Delhi for this purpose.

21. Thus, in face of the above, we direct the competent authorities including STA's officers, enforcing agencies and police particularly traffic police to ensure lane driving, no overtaking in prohibited zones and to fix bars to be fixed in the middle lane so as to prevent the drivers driving in the middle lane to suddenly shift to the extreme right lane near the crossings or wherever the right turn is permissible.

RULES AND RELATED DIRECTIONS FOR DRIVERS AND CONDUCTORS

22. Under the Rules, a Driver has to be a trained person and is expected to pass the test held by the competent authority. However, the Rules and the Act are silent with regard to educational qualification of the Drivers. In the present days, one cannot loose site of the fact that the Drivers are expected to deal with the public, which consists of well-to-do persons, poorer sections of society, elderly persons, young boys and ladies. Their behaviour towards the public is a matter of concern. Lack of basic qualifications can lead to unexpected behaviour and in some cases even undesirable behaviour. Besides the fact that a Driver essentially must satisfy with technical qualifications and fulfillment of test, it is necessary that they should have minimum basic education as well. It was stated on behalf of the Delhi Transport Corporation that they are going to employ nearly 3000 Drivers for their different buses. The post of Driver is treated as a skilled post and the scale to the said post is Rs.3200-4900. It was submitted by the Amicus Curiae that the educational qualification should be 10+2. Learned counsel appearing for Govt. of NCT of Delhi had also supported this submission. However, on behalf of Delhi Transport Corporation it was stated that since the posts have already been advertised, applications have been received and even selections have been made, it may not be fair to put a naught the entire process of selection as it would delay completion of their different projects. Having heard learned counsel appearing for different parties, we direct that henceforth the Drivers appointed in DTC, Govt. of NCT of Delhi and in all the private buses, which operate under the permits of State Transport Authority, should have

minimum educational qualification of 10+2 as that qualification at least would be necessary for them to understand the modern developments, the traffic signals, signs, read the traffic boards and what is more important is to have better behaviour towards their passengers. The educational qualification for the conductor is 10th class pass. With the exception of appointment of Drivers in DTC, as already noticed, all other appointments henceforth would be made, subject to this educational qualification and this condition shall also be incorporated in the permit to be granted by the State Transport Authority. Providing of these qualifications would even further add to the cause of education. There will be a genuine effort on the part of even the poorest to complete his schooling as primary education now has been stated to be the fundamental right of the citizen of the India.

23. It was also suggested and which we find is necessary that Drivers of all the buses including the Drivers employed by various Government Departments, who are driving cars or buses of various authorities, should undergo training courses and/or refresher courses. Delhi Traffic Police has created one Road Safety cell, which focuses on the education of the road users-particularly the commercial group. Different training schemes have been prepared for training of the drivers. In addition to the institute of DTC, there are three institutes in Delhi i.e. at Sarai Kale Khan, Loni and at Burari, which impart training to the drivers. All these institutes shall hold regular training and/or refresher courses, which will be attended to by all drivers employed by various Government organisations, Govt. of NCT of Delhi and its various departments and all the drivers, who are driving the buses under the permits of the State Transport Authority. The First course in this regard shall commence with effect from May, 2007 and the Secretary (Transport), Govt. of NCT of Delhi, Secretary (STA) and the Chairman, DTC shall ensure compliance of this direction and would prepare an educational-cum-training programme in that regard.

24. It will be useful to refer to the contents of the report submitted to the Court, as a result of various meetings held by the Amicus Curiae with different departments, which reads as under :-

“The objective of traffic police is to sensitize drivers of buses and commercial vehicles in road safety education. It has been seen that education is having a positive impact in reduction of accidents and making traffic flow smooth on the roads. The bus driver's course has been designed in such a fashion that this object can be achieved. The course content of such courses is as follows:-

- (i) Rules/law governing the road.
- (ii) Road signs and road marking
- (iii) Duties and responsibilities of drivers and conductors.
- (iv) Safe driving tactics.
- (v) Courtesy and behaviour
- (vi) Guidelines of Hon'ble Supreme Court for buses and commercial goods vehicles, HTVs, MMVs and LGVs.
- (vii) Driving in abnormal weather conditions.

- (viii) Tips to avert accidents.
- (ix) Action in post accident scenario etc.

In addition to other efforts, interactive sessions for the drivers of passenger vehicles shall continue this year as well.”

25. The drivers should be kept on probation for a period of two years and his mannerism and driving should be closely watched by the Supervisory staff of DTC/STA/concerned officers and record should be maintained as to how many traffic offences, he commits during that period. This all should be made the basis for extension of probation and/or confirmation, as the case may be. But if his case is found to be totally unsatisfactory and he is found to be an offending driver, the competent authority should take a definite action in this regard.

26. The State Transport Authority should also ensure that the buses running under its permit do not have any person other than a conductor and a driver in a bus. It is commonly noticed and was vehemently argued before us that number of young boys are engaged by these private bus owners and they beat the sides of the buses with their hands, which generates annoying loud noise and in addition thereto, they keep on whistling to obstruct other drivers. This is particularly done near to the bus stands. This must be stopped forthwith. The State Transport Authority shall incorporate such a condition in the permit that only a driver and a conductor shall be in a bus and no person including the conductor shall be on the stairs of a bus or hang outside the door of a bus. The violation of this condition should be treated as a violation under Section 179 of the Act in addition to violation of terms of permit and the staff of STA as well as the traffic police shall take appropriate action in accordance with law against them henceforth. The authorities shall also ensure that overloaded buses are not permitted to ply on the roads of Delhi.

DIRECTIONS REGARDING IMPOSITION OF FINES

27. Various offences are committed by two wheeler drivers and the drivers of other vehicles. To illustrate this fact, reference can be made to para 21 of the report, which was submitted before us and reads as under :

1. Without helmet 1,99,083
2. Pillion Rider w/o helmet 52,921
3. Not driving in proper lane 3,526
4. Using top-light 85
5. Tinted Glass, 53,390
6. Defective number plate 1,99,901
7. Tow-away Crane work 1,20,145

28. The Government vehicles and buses are also challaned and their was complete unanimity before us that no fine should be paid by the Government or the concerned department for the traffic offences committed by the drivers of Government vehicles. It will be unfair to require an ordinary citizen of this country and an income tax payer to

pay for the fault of these people, who because of their slackness, indiscipline and carelessness commit traffic offences. Thus, we direct that Government of NCT of Delhi, all and any of its departments, any corporation or other organisation/ companies, which are owned by the State or the DTC, shall not pay fine for any traffic offences committed by their drivers and payments of such fines, composition fee or any other charges payable in this regard, shall be paid exclusively by the drivers of the said vehicles.

DIRECTIONS REGARDING LOW FLOORING BUSES

29. It was commonly conceded before us that in order to reduce accidents particularly by buses, the DTC buses and/or the buses plying in Delhi under the permits issued by the State Transport Authority, will be the buses where the seat of the driver is on a lower floor. These will be low floor buses having a bigger front screen. The recommendation of the Committee in this regard reads as under :-

“Revised Standards for Bus Body : It was noted that standards with respect to bus body specifications were notified on 16.9.05. The attendees decided that suitable changes would be made to ensure that the standards were compatible with international practices and designs, by positioning the driver in a sufficiently advantageous position at a lower level and with greater visibility. Such changes would be approved by the Central Motor Vehicles Rules Technical Standing Committee, and notified within three months for all four types of heavy passenger vehicles, i.e. Medium and High Capacity buses, intra-urban buses, long distance buses, and special purpose buses (school buses, sleepers and tourist buses). For goods vehicles, similar steps would be initiated in due course. Until the new standards are notified, all type approvals would be suspended in Delhi, as per the order of the Delhi High Court directing that no new purchase orders were to be made. It was pointed out that the Delhi Transport Corporation had already invited tenders for 625 new buses (or modern design). These buses were as per the new bus code -having a low floor (390 mm floor height), pneumatic doors, rear engine, tubeless tyres, low driver seating, and enhanced upward and downward visibility for driver. The price bid is set to open on the 5th of February. This is a re-tender, involving three bidders “ Leyland, Tata, and a Chinese company. Unlike the existing stock of buses of DTC, these buses are chassis and body together. The earlier buses have a body fabricated on a chassis. The new fleet of buses will be disabled friendly, with place for two wheelchairs. The Chairman of DTC was contacted, and he gave details of the new buses to be purchased. He also undertook to abide by the new revised bus code if such a code was brought into operation before the date of manufacture of the newly ordered buses. The Chairman also stated that 2500 regular drivers were being recruited by DTC. The conditions of recruitment of these drivers required them to be 10th pass and a 2 year probation period was mandated. Thus, the DTC was fully cognizant of the changes required in bus bodies, and in driver recruitment practices, and was making a concerted effort to bring in improved practices. In view of this, a modification of the direction of the High Court may be sought to enable purchase of these buses by DTC. Further, under the current tender, DTC retains the option to buy additional buses within a specified period. The purchase of those buses would be as per the new bus code as and when it comes into effect”.

30. The Government of NCT of Delhi while agreeing with the above recommendation, has also stated that action for revision of bus body standards is being taken up by the concerned ministries and final bid for purchase of 625 low floor CNG buses has already been opened and further steps are in progress. Due instructions have been given to the State Transport Authority and Registration Authorities not to register buses, which do not have low floor.

31. We are happy to note the information given by the Delhi Transport Corporation that they had introduced 5 low floor buses in November, 2005 and one bus was added in November, 2006. Over a period of more than 2 years, none of these buses have reported any fatal accident and in fact they have not met with any accident. Therefore, we direct that in Delhi, all local buses by whomsoever they are running under permit or otherwise, shall be low floor buses and only such vehicles will be registered by the authorities. This will also be a condition in the permit issued by the State Transport Authority.

32. As the matter with regard to High Capacity Buses and creation of High Capacity Bus Corridor System is already pending before the Supreme Court, there is no occasion for this Court to deal with this aspect, even though some arguments were addressed in this regard.

LICENCE :-

33 Driving without licence is a very serious offence. A driver must have a licence to drive a vehicle in accordance with law. Times have come when the Licensing Authority should ensure that proper tests are conducted and the persons to whom the licences are issued are fully qualified and have the necessary training for driving a vehicle. Familiarity with the traffic regulations, signs and other disciplines relating the driving on the roads, should be a matter of great concern for the authorities, who should ensure strict adherence to the prescribed procedure. Issuance of licences in a casual manner can prove very fatal. We do hope that the authorities concerned would spare no effort to strictly comply with the provisions of the Act and Rules and ensure that the person to whom the licence is issued, is capable of following and adhering to the rules and regulations of traffic; the drivers, who offend the traffic rules and regulations are punished for each offence, but in terms of the judgment of the Supreme Court, where a person repeatedly is found offending such provisions, his licence deserves to be cancelled. The authorities have already taken a decision that a person who commits five offences, his licence would be liable to be cancelled in accordance with the judgment of the Supreme Court as well as the decisions taken by the authorities in accordance with Rules. A suggestion was mooted that on each licence there should be punching points which should be punched whenever a person is found guilty of violating any traffic rule and even where the driver pays the compounding fee, still the licence should be punched. On the fifth offence i.e. after the licence has been punched five times, the licence should be cancelled and intimation should be sent to all concerned authorities and due entries should be made in the computers of the Registering/State Transport Authority. A national programme needs to be developed so that a person whose licence is cancelled by the authorities in a particular State, is not able to get a fresh licence from other States and frustrate the very purpose of

cancellation of licence. It was also brought to the notice of the Court that since now the Smart Cards are being issued, therefore, there would be no need to punch the licences as the card itself would carry every necessary entry. It was further stated that a programme has already been made wherein if a person is found guilty of any five traffic offences, the same will be reflected on his Smart Card itself and then the licence will be cancelled automatically. Hence, we direct that Until issuance of smart cards to all the drivers by the Licensing/Registration authorities and proper maintenance of the complete record, all the licenses issued by the authorities anywhere in India and where the offences are committed in the territorial jurisdiction of this Court, the license shall be punched for commission of each traffic offence. On commission of the 5th traffic offence, the license of the driver shall not only be punched but also would be retained for taking out cancellation proceedings in accordance with law.

34. All the drivers driving the buses of the Delhi Transport Corporation or driving on the basis of the permits issued by the STA, shall wear a uniform without fail. The uniform of the driver shall also carry the name plate along with the number allotted to him by the respective authorities. It has been brought to the notice of the Court that the Delhi Transport Corporation provides uniform and also gives uniform allowance to its drivers and conductors. Thus, there is no reason why the drivers should not be in proper uniform and why they shall not wear the name plate with their number on it. Similarly, the conductor of the bus should also wear the uniform along with the name plate. Unless, the colour has been specified by the concerned authorities or may be specified, uniform of grey and khaki colour should be worn by the drivers and conductors of all the buses afore-indicated. This will equally apply to the drivers of all the government vehicles.

35. It was also brought to the notice of the Court that the working hours of the drivers of these buses, especially those run by the private operators and the buses running under the permits granted by the STA, are very long and because of such long working hours, these drivers get exhausted resulting in careless driving of the buses which lead to these vehicles meeting with fatal accidents. Thus, we direct that in accordance with law, the DTC/STA and all other concerned authorities shall notify the working hours of the drivers and would not permit the drivers to drive beyond the prescribed hours, particularly in the buses run in Delhi.36. It is also directed that no driver of any vehicle shall smoke while driving. He shall also not drive the vehicle without seat belt and shall also not use mobile phones/sets while driving.

37. Delhi is a growing city and is a city of international importance. It is not only desirable but necessary that various bus-stands and other places including the buses are disabled-friendly. There was unanimity between the counsel appearing for different parties as well as the report filed before us that the bus-stands should be made disabled-friendly and due provisions should be made for disabled persons to board the buses without any inconvenience or difficulty. This is a clear obligation on the part of the State. All the bus stands should be improved and without offending any rules, they must be made disabled-friendly with requisite facilities. The Court on 25.1.2007 had passed the order in regard to construction of disabled-friendly buses and bus stops and the relevant portion whereof reads as under:-

“Present: Court on its own motion
Mr. Gopal Subramanyam, ASG with Mr. P.Kapur, Amicus
curiae
Mr. Rajiv Awasthi, Adv.
Mr. M.K. Verma for intervenor
Ms. Avnish Ahlawat for transport DG.
Mr. Ajay Verma for DTC
Ms. Zubeda Begum for R2
Mr. Ankur Jain for State

WP(C) 16565/2006 and 207/2004

We have heard the amicus curiae Mr. Gopal Subramanyam, learned ASG of India. We are happy to note that the matters have progressed. He may file the proposals which he had discussed and proposed to various authorities on record within two days from today and provide copy thereof to the counsel appearing for different authorities/ organizations.

It is stated that the proposals for the buses with a new frame/ models to bring the driver seat at a lower level as well as to ensure that same are easily accessible to a dis-abled person, have been accepted by the authorities concerned but obviously they need some time to finalize the same. It is in the interest of the Administration that the new buses are not purchased by any of the Corporations who are having route permits to run buses for mass- transportation in Delhi till the next date of hearing which, in any case, is four days ahead.....”

38. After passing of the above order, the learned counsel appearing for the DTC had informed the Court that the authorities are taking effective steps to ensure compliance of these orders and would fully discharge their obligations. We may also notice that the DTC is receiving a sum of Rs. 2500/- per month from other buses which are plying on the roads of Delhi. The said amount received by the DTC from 1997 till 2007 is stated to be approximately Rs.76.8 crores, which has not been fully utilized by the DTC for the purposes for which it ought to have been utilized. The fund is being collected under the orders of the Supreme Court in the case of Capt. Sube Singh vs. Lt. Governor of Delhi and Ors. Civil Appeal No. 1725/2001 decided on 30.4.2004 Thus, we direct that the DTC shall continue to make proper bus stands with proper bus bays wherever it is possible. Every effort would be made, with the help of other public authorities to whom we direct to fully cooperate, to ensure that all the bus stops are made with bus-bays. Further, the bus stands so made shall be disabled-friendly and no encroachers would be permitted on these bus stands. No person should be permitted to occupy any space on the bus stands or immediately adjacent to the bus stands or to keep a water trolley or other raidees etc. in the vicinity of the bus stands. The Municipal Corporation of Delhi (MCD) and the New Delhi Municipal Corporation (NDMC) shall not issue any licence, contrary to this direction.

39. All the roads in Delhi shall be cleared from the unauthorized occupation of shopkeepers, raidees, water-trolleys and any other objects, which obstruct the traffic and no part of the main road shall be used for parking of vehicles /rickshaws/scooters. This Court vide its order dated 16th March, 2007 had passed interim directions, which were accepted and acted upon by the authorities. We confirm that order and direct the authorities to take effective steps immediately to ensure compliance of this direction along with the directions contained in that order. The Assistant Commissioner of Police shall ensure that the authorities concerned are fully implementing this condition. There should be no violation of these conditions in the area under their control. It is further directed that in the entire Lutyens Zone, no vehicles would be parked on the metalled roads and wherever large number of persons have to go to that Zone, they shall park their cars at India Gate parking and the authorities are directed to ply special buses within the Lutyens Zones beginning and terminating at India Gate. The main roads falling in the Lutyens Zone shall be treated as no parking zone and the vehicles parked on the main road shall be towed away by the traffic police, in accordance with law. The boards of 'Tow Away Zone' shall be displayed on the roads in Lutyens Zone.

DIRECTIONS REGARDING REMOVAL OF HOARDINGS AND ADVERTISING BOARDS:-

40. The hoardings and/or advertising boards near and facing the roads are traffic hazards. It is neither necessary nor there is any requirement of law that the Court should have a data before it as to what is the extent of adverse effect on vehicular traffic resulting from these advertisements and hoardings. Most of the advertising boards have such bright lights, which not only distract the driver but are even a clear obstruction to the flow of the traffic. The object of the Legislation is to take effective steps to prevent accidents and possibility of violating the traffic regulations. The Supreme Court in the case of M.C. Mehta Vs. Union of India and Others (1997) 8 SCC 770 while debaring the hoardings, has held as under :-

“(i) The civic authorities including DDA, the Railways, the police and transport authorities, are directed to identify and remove all hoardings which are on roadsides and which are hazardous and a disturbance to safe traffic movement. In addition, steps be taken to put up road/traffic signs which facilitate free flow of traffic.”

41. An application was filed by Delhi Outdoor Advertisers Association for modification of the aforesaid direction. The Supreme Court while dismissing the application held as under :-

“2. This application is made by Delhi Outdoor Advertisers Association. The prayer in the application is for clarification/modification of the order dated November 20, 1997 in so far as it relates to the direction given therein for the removal of all hoardings which are on road-sides and which are a disturbance to safe traffic movement. Having heard Shri G. Ramaswamy, learned senior counsel for the applicant, and the learned amicus curiae, we are satisfied that this application must be rejected. We have perused the notice published by the Commissioner of M.C.D. Warning all advertisers/owners of hoardings in Delhi to

remove such hoardings and also the notices issued thereafter as a result of non-compliance of the notice by some persons. We are satisfied that the steps taken are in the proper direction to identify and remove these hoardings. Shri G. Ramaswamy submitted that the order enables the authorities to act arbitrarily and to remove any hoarding at their will which should not be permitted. In our opinion, such a perception is not correct. The order made by this Court on November 20, 1997, which was duly publicised has directed in the order itself publicity through the electronic media and is obviously well-known to everyone. The applicants belong to a category who would undoubtedly be aware of the order and its requirement. Even thereafter, a notice requiring compliance was published in the newspapers and in addition, in case of continuing default, individual notices were issued some of which were shown to us by the learned counsel. There is, thus, sufficient notice to every person and no further notice of the kind suggested by Shri Ramaswamy is required to any advertiser/owner of the hoardings. The order dated November 20, 1997 is quite clear and has also been correctly understood by the authorities to remove all hoardings which are on road-sides and which are hazardous and a disturbance to safe traffic movement. There is no ambiguity in the order. It is obvious that every hoarding, other than traffic signs and road signs on the road-sides have to be removed irrespective of its kind; every hoarding irrespective of whether it is on the road-side or not which is hazardous and a disturbance to safe traffic movement so as to adversely affect free and safe flow of traffic is required to be identified by the authorities and promptly removed. Obviously, the hazardous hoarding which is a disturbance to safe traffic movement has to be a hoarding visible to the traffic on the road. No other detail or further guideline is required for appreciating this order and its implementation. Even though the order dated 20.11.1997 was explicit and very clear, yet these further observations are made to leave no one in any doubt of the content and requirement of our order.”

42. We may also notice that the Punjab and Haryana High Court in the case of Namit Kumar Vs. U.T. Chandigarh Administration (Order dated 22nd September, 2004 passed in CWP No. 7639/95) had passed following directions :-

“22. In a very recent judgment of Hon'ble Supreme Court of India in the case of M.C. Mehta Vs. Union of India and others (supra) various directions for regulating vehicular traffic with greater emphasis on removal of all holdings and advertisement Boards on the road side which were considered hazardous and disturbance to safe traffic movements.

Following the mandate of the Hon'ble Apex Court, we direct that all the sign Boards, hoardings, neon sign boards, advertisement boards, facing the highways, main road and the side roads/lanes shall be removed within a period of one month from the date of pronouncement of this judgment. Compliance report shall be submitted to the Registrar of this Court within 15 days thereafter.

It is made clear that firstly the State administration/competent authority i.e. The State Transport Authority and the Municipal Corporation or Committee shall call upon the holder of such Boards to remove the same within 15 days. In the event of their failure to do so the State shall remove the same by its enforcement agencies. It shall be ensured that boards are removed and the iron or concrete pillars on which such boards are fixed are

demolished or removed. The expense so incurred by the State shall be recovered from the owner of the land as arrears of land revenue, if not paid on demand”.

43. An appeal was preferred against the said order in the Supreme Court which was disposed of on 27th September, 2004 and was reported as Chandigarh Administration Vs. Namit Kumar AIR 2005 SC1386. The Supreme Court in that case did not direct any alteration in regard to that condition. Thus, it need to be reiterated that all the authorities concerned responsible for removal of hoardings particularly the MCD, NDMC, Delhi Metro, Railway Authorities and other bodies have violated the directions of the Court with impunity. This attitude must come to an end forthwith. They are obliged not to permit any hoardings especially on the main road, which are facing the road, as they have been held to be hazardous by the Supreme Court. It needs no further clarification. All hoardings on the main roads of Delhi should be removed within one month from today and no hoardings should be permitted in violation of the above judgment of the Supreme Court as well as in contravention to this direction. The roads of Delhi should have a free sky line as well as non-destructive driving routes in Delhi.

44. It does not stand to any reason that some senior officers of the Government have taken a decision permitting these hoardings in the teeth of the order of the Supreme Court. It is a clear misreading of the judgment of the Supreme Court and in fact ex-facie amounts to violation of the orders of the Court. However, at this stage, we would refrain from taking any action but would direct to ensure compliance of the directions of this order, which is inconformity with the orders of the Supreme Court.

DIRECTIONS IN RELATION TO LOG TIME OF BUSES

45. We hereby constitute another committee consisting of Secretary (Transport), Govt. of NCT of Delhi, Secretary (STA), Chairman, DTC, Secretary (STA), one representative of the private bus operator co-opted by the Secretary (STA), who shall frame a time table jointly in order to ensure that not more than 2 or 3 buses should reach at a bus stand at one point of time. This time table shall be circulated for information of all concerned including the traffic police and other enforcing agencies and should be adhered to strictly. Those, who are found indulging in violation of this condition, shall be dealt with in accordance with law including chalking such vehicles for disobedience of this condition.

46. The State Transport Corporation shall ensure that the private bus operators should carry the photograph of the person to whom the license has been granted. This direction is necessary for the reason that it was argued before the Court that the licenses are being sold and the buses are being operated by the persons other than the persons, who were awarded the license as the licenses are being sold by indirect process after taking huge money. It will be obligatory upon every driver to carry the permission of the State Transport Authority, which would have the photograph of the person to whom the license for the route has been granted.

47. During the pendency of this petition, the Amicus Curiae had held various meetings, as already noticed by us, with senior Government officers/officials from different

departments and thereafter suggestions/report was submitted to the Court. It was also informed that the report is by and large acceptable to the Union of India as well as the Government of NCT of Delhi. The directions contained in this judgment are primarily relatable to the said report.

48. Learned counsel appearing for the Union of India had brought to the notice of the Court that the Government of India has already proposed nearly 86 amendments to the Motor Vehicle Act and Rules framed thereunder. We do hope that all concerned authorities would expedite this matter and ensure that the same is brought to the notice of the Legislature for its consideration and appropriate action.

49. Under the provisions of Motor Vehicles Act (Section 206), the Court taking cognizance of offences under that Act have to dispose of the case as a summary disposal case. The offenders are normally interested in paying the compounding/composition fee to avoid the judicial process and for their own convenience.

50. In respect of the persons and/or the vehicles which are repeatedly involved in traffic offences by using pressure horns, black films, red light and other impermissible material on the cars, the authorities are expected to take recourse to the provisions of Section 207 of the Act and impound such offending articles/vehicles. It was stated that the enforcement authorities including the Delhi Police have issued directions for removal of films. Whenever and wherever a vehicle is found offending the provision and/or directions of the Court, we are of the opinion that there is no legal impediment or otherwise in the way of the traffic police to remove such films which are impermissible in law. The cars at best can use tinted glasses, as per the orders of the Supreme Court.

51. Certain vigorous steps need to be taken by the authorities concerned and all the enforcing agencies including the traffic police. The underlining principle behind such punitive law is not only to punish but also to ensure prevention. The modernise mechanism is to be involved for the purpose of catching the offender by a full proof process and challan them but it is also to ensure that there is definite preventive steps to avoid re-occurrence of such offences. Pre-existence of data per se is not essential for passing directions, as the very language of the Act shows that the authorities must issue appropriate directions to minimise if not extinguish, the possibility of traffic offences. One of the important amendments suggested is in relation to amendment of Section 304 A of the Indian Penal Code, which is taken up by the Government. To effectively enforce various directions contained in this judgment, proper deployment of force by the concerned authorities, is necessary. We have already indicated that depending upon the nature of the offences to which a particular area is more prone, concerted and collective effort should be made by the enforcement agencies including the traffic police on zone basis.

52. It is argued and even commonly brought to the notice of the Court that a number of constables posted on the roads are not really performing their duties in a disciplined manner. It is expected of the higher and supervisory staff of the police including the traffic police to deploy the staff in a manner so to achieve the object of proper control of

traffic and prevention of traffic offences. The senior staff, therefore, must inspect performance of these constables by deploying the police officers at the places where they are posted.

53. Unlike the law of revenue, the concept of indirect liability is unknown to criminal jurisprudence. The person, who commits the offence, must necessarily bear its penalty as well as the cost. Both these elements need to be attended to by the concerned authorities.

54. The power vested in the High Court under Article 226 is very wide and the Court while passing order and/or direction has to keep in mind the objective of permitting public interest and good administration. Perpetuation of illegality essentially need to be stopped. The Language of Article 226 enables the Court to “reach justice wherever found necessary” as well as “to mould the relief” and “to issue proper directions keeping in view the interest of public at large”. The Court would issue directions, which are justified in the circumstances of the case and inconformity with law. Reference in this regard can be made to the judgments of the Supreme Court in the cases of Comptroller and Auditor-General of India, Gian Prakash, New Delhi and Another Vs. K.S. Jagannathan and Another 1986 SCC (LandS) 345, Dr. Kashinath G. Jalmi and another Vs. The Speaker and Others AIR 1993 SC 1873 and Badrinath Vs. Government of Tamil Nadu and Others (2000)8 SCC 395. In the larger interest of public and to satisfy the requirement of enforcement of law, shaking the enforcement agencies and police officers to perform their duties with a further object of arising basic awareness for adherence to rules of traffic and to ensure compliance by the public authorities/corporations directly or indirectly connected with traffic of Delhi, the Court should issue appropriate directions to ensure that justice is done to a common man and he is able to travel on the roads of Delhi without fear of fatal accidents.

55. To conclude and in order to bring the matters beyond ambiguity even at the cost of repetition, we would now refer to various directions contained in this judgment in a concise manner and direct that all the authorities concerned in the administration shall ensure their compliance without any default and delay :-

1. Wherever any driver of any vehicle including a two-wheeler is challaned by the traffic police and/or any other competent authority, he shall be liable to pay costs of Rs. 500/- for each offence committed by him in addition to the composition fee payable in terms of Section 200 of the Motor Vehicles Act or any other enabling provision of law to that effect. Wherever, the challan is tried by the court of competent jurisdiction, it shall consider the question of imposing costs depending on the facts of each case and would exercise such discretion in accordance with settled principles of law. For example, for committing the offence of jumping the red light, the offender shall pay compounding fee equivalent to the fine under the Section i.e. Rs. 100 and Rs. 500 as costs, thus, totalling to Rs. 600/- .

2. Until issuance of smart cards to all the drivers by the Licensing/Registration authorities and proper maintenance of the complete record, all the licenses issued by the authorities anywhere in India and where the offences are committed in the

territorial jurisdiction of this Court, the license shall be punched for commission of each traffic offence. On commission of the 5th traffic offence, the license of the driver shall not only be punched but also would be retained for taking out cancellation proceedings in accordance with law.

3. The Licensing authority shall ensure conducting of stringent and rigour test in accordance with the provisions of the Act and the Rules for issuance of driving licence. It shall ensure that the applicant to whom the licence is sought to be issued is fully competent, understands and is capable of safe driving in accordance with Rules.

4. All the drivers whether employed by the DTC or driving the buses on the basis of permits issued by the STA, shall wear a uniform without fail. The uniform shall also carry the name plate along with the number allotted to him by the respective authorities. Unless the colour has been specified by the concerned authorities or may be specified, uniform of grey and khaki colour should be worn by the drives and conductors of all the buses. This will equally apply to the drivers of all the government vehicles.

5. No driver of any vehicle shall smoke while driving.

6. No driver shall drive a vehicle without seat belt.

7. No driver shall use mobile phones/sets while driving.

8. Except for the exemption specifically granted in this judgment, all the drivers of all the vehicles should have minimum qualification of 10+2 and the conductor should at least be 10th class pass. This condition shall also be incorporated in the permit to be issued by the State Transport Authority.

9. In addition to the institute of DTC, three other institutes have been set up in Delhi for imparting training to the drivers. They shall hold regular training and/or refresher courses, which will be attended by all the drivers whether employed by the Government Agencies or driving the buses under the permits of STA. The Secretary (Transport), Govt. of NCT of Delhi, Secretary (STA) and Chairman, DTC shall ensure that the first course is commenced with effect from May, 2007 and they would prepare an educational-cum-training programme in this regard.

10. The drivers should be kept on probation for a period of two years and their mannerism and driving skills should be closely watched by the Supervisory staff of DTC/STA/concerned officers. Record shall also be maintained with regard to the traffic offences committed by them during that period, which shall be considered for extension of probation and/or confirmation, as the case may be. However, if the case of a driver is found to be totally unsatisfactory, the competent authority should take a definite action in this regard.

11.The DTC/STA and all other concerned authorities shall notify the working hours of the drivers and would not permit the drivers to drive beyond the prescribed hours, particularly in the buses running in Delhi.

12.The Delhi Transport Corporation shall continue to make proper bus stands with proper bus-bays wherever it is possible. The bus stands so made shall be disabled-friendly and there shall be no encroachers permitted on these bus stands i.e. no person would be permitted to occupy any space of the bus stand or immediately adjacent to the bus stands for keeping a water trolley or other raidees etc.

13.The Municipal Corporation of Delhi/New Delhi Municipal Corporation shall not issue any license, contrary to the above direction. They shall also ensure that all the roads in Delhi shall be cleared from the unauthorized occupation of shopkeepers, raidees, water-trolleys and no other object, which obstructs the traffic and no part of the main road shall be used for parking of vehicles/rickshaws/scooters. The authorities shall also take effective steps to ensure compliance of directions contained in the order dated 16th March, 2007.The Assistant Commissioner of Police shall ensure that the authorities concerned are fully implementing this condition. There should be no violation of these conditions in the area under their control.

14.No vehicle to whomsoever it may belong, would have the black films on the glass/screen of the car, unless it has specific permission of the concerned authority, bearing the car number as well.

15.We hereby constitute a Special Committee of which Home Secretary, Delhi, Additional Commissioner of Police (Security) and Additional Commissioner of Police (Traffic) shall be the members. This Special Committee shall examine the perception of threat of security to any person, who applies to the Committee for grant of permission to use black films on the car. We do hope that the Special Committee shall use its discretion discreetly and in genuine cases. The Committee shall issue a certificate under its seal, which should be kept in the official car of the person to whom such permission is granted.

16.The authorities concerned shall ensure that no official car or any person or dignitary other than the one specified by the Administration vide its notification displays the red/blue or any other light on the bonnet or atop the car. The aforesaid lights should be displayed only when such dignitary is in the car, otherwise the same should be covered and not displayed.

17.The Government of NCT of Delhi and its departments, corporation or any other organization/companies, which are owned by the State or the DTC shall not pay fine for any traffic offences committed by their drivers. Payment of such fines, composition fee or any other charges payable in this regard shall be paid exclusively by the concerned driver.

18.The concerned authorities shall ensure that in Delhi, all local buses shall be low floor buses and only such vehicles will be registered by the authorities. This condition shall be duly incorporated in the permits issued by the STA/concerned authority.

19.The authorities concerned shall ensure that all hoardings on the main roads of Delhi are removed within one month from today and no hoardings should be permitted in violation of the judgment of the Supreme Court as well as in contravention to directions contained in this judgment.

20.The STA shall ensure that the buses running under its permit do not have any person other than a conductor and a driver in a bus and this shall also be a condition of the permit. It shall also ensure that no person including the conductor shall be on the stairs of a bus or hang outside the door of a bus. The authorities shall also ensure that overloaded buses are not permitted to ply on the roads of Delhi. Further it shall ensure that the private bus operators shall not employ/depute young boys or any other person, who, as commonly noticed and even argued vehemently before us, beat the sides of the buses with their hands and keep on whistling, which generates annoying loud noise and distract other drivers. The traffic police and the STA staff shall take appropriate action against the defaulting bus operators/persons in accordance with law. Default in adherence to this condition shall also be treated as violation of provisions of Section 179 of the Act.

21.We constitute another Committee consisting of Secretary (Transport) Govt. of NCT of Delhi, Secretary (STA), Chairman, DTC and one representative of private bus operator co-opted by the Secretary (STA), who shall frame a time table jointly in order to ensure that not more than 2 or 3 buses should reach at a bus stand at one point of time. This time table shall be circulated for information of all concerned including the traffic police and other enforcing agencies and should be adhered to strictly. Those, who are found indulging in violation of this condition, shall be dealt with in accordance with law including challaning such vehicles for disobedience of this condition.

22.The STA shall ensure that the private bus operators should carry the photograph of the person to whom the license has been granted.

23.The authorities are expected to take recourse to provisions of Section 207 of the Act and impound such offending articles/vehicles, which are using pressure horns, black films, red/blue or any other light and other impermissible materials on the cars/vehicles.

24.There should be proper deployment of force by the concerned authorities to ensure effective enforcement of the various directions contained in this judgment. Depending upon the nature of the offences to which a particular area is more

prone, concerted and collective effort should be made by the enforcement agencies including the traffic police on zone basis.

25.It is further directed that unless and otherwise exempted for a particular occasion or function by the competent authority i.e. Additional Commissioner of Traffic Police, on the entire Lutyens Zone, no vehicles would be parked on the metalled roads and wherever large number of persons have to go to that zone, they shall park their cars at the earmarked parking areas at India Gate. The authorities are directed to ply special buses within the Lutyens Zones beginning and terminating at India Gate. The main roads falling in the Lutyens Zones shall be treated as no parking zone and the vehicles parked on the main road shall be towed away by the traffic police, in accordance with law. The boards of 'Tow Away Zone' shall be displayed on the roads in Lutyens Zone.

26.All the vehicles whether light/heavy/two wheelers etc. on the road will not have any other horn except an electric horn in accordance with the prescribed standards afore-noticed. In other words, no vehicle shall be fitted with and blow pressure horn, musical horn or use any such other device producing shrill, loud or musical noise. Any offender irrespective of the fact as to who is the owner of the vehicle, shall be challaned and fined in accordance with the law henceforth. The DTC and State Transport Authority shall issue a circular clearly stipulating therein that no vehicle would be registered or granted permit in the event it offends this direction and provisions of Rule 119 of the Rules. Whichever vehicle is challaned for violation of this direction, the enforcement agencies and/or traffic police would be entitled to disconnect and/or remove such horn/device from the vehicle.

27.The competent authorities including STA's officers, enforcing agencies and police, particularly the traffic police, are directed to ensure lane driving, no overtaking in prohibited zones and to fix bars in the central lane so as to prevent the drivers driving in the middle lane to suddenly shift to the extreme right lane near the crossing or where the right turn is permissible.

28.The concerned authorities/departments shall issue a circular containing all the above directions within two weeks from today. The individual department upon whom the obligation to take certain steps in terms of the directions is placed shall also take such steps within the same period.

56. These directions would come into force forthwith. However , we direct the enforcement agencies to educate the drivers of vehicles, public and/or all concerned persons regarding implementation of these directions at least for a period of 2 weeks. The fine/cost indicated in the judgment and other action in accordance with law penal or otherwise shall become effective from 9th April, 2007. Thereafter, we would expect the enforcement agencies as well as the Delhi Traffic Police to implement these directions with great sincerity and vigour. To achieve the object of smooth and disciplined traffic in Delhi, which is free of fatal accidents, we hereby constitute an 'Enforcement-cum-Supervisory Committee'. The Secretary (Transport), Govt. of NCT of Delhi, Additional

Commissioner of Police (Traffic), Chairman, DTC, Secretary (STA) and Mr. Rajiv Awasthi, Advocate, shall be the members of the said Committee. This Committee shall ensure that the directions issued by this Court are complied with without any default and delay. This Committee shall meet at least once in a month and shall submit progress report to the Registrar of this Court, which shall be brought to the notice of the Court on the administrative side.

57. The writ petitions are accordingly disposed of with the above directions.

SWATANTER KUMAR
(JUDGE)

H.R. MALHOTRA
(JUDGE)

March 26, 2007