A M.C. MEHTA ETC.

*v.*

UNION OF INDIA AND ORS.

DECEMBER 16, 1997

B [A.M. AHMADI, CJ., B.N. KIRPAL AND V.N. KHARE, JJ.]

*Motor Vehicles Act, 1988 :*

*Motor Vehicles Rules, 1993: Rule 17.*

C *Public safety—Road traffic—Directions issued by Supreme Court—Modifications of—Issue of further directions—Commercial licences issued between 1993-95 be re-verified to weed out licences issued without following the rules—Prescription of refresher training course as a condition for* D *renewal of licence for heavy vehicle—Permit which has been or is being used by any person other than the original grantee, without the express prior permission of the grantee should not be renewed—Steps should be taken to remove all encroachments on roads—Appropriate authorities should frame guidelines for regulating processions on road—Union of India should file within two weeks the Action Plan for appointment of private persons to* E *enforce traffic safety laws and confer upon such people suitable powers—Transport as well as the Police Departments to ensure that the contents of this order are duly publicised so that the people using roads are made aware of the restrictions imposed—Publicity should be given to basic rules relating to safe driving.*

F *School Children—Safety of—Educational institutions should not use buses unless fitted with doors which can be used—Such buses shall not be permitted to operate without a qualified conductor—Presence of at least one parent in such buses should be ensured—Vehicles transporting students should not be permitted to carry children more than 1.5 times of registered* G *seating capacity—No fresh permits in respect of the TSR, save and except by way of replacement of an existing working TSR with a new one, shall be granted.*

*Communist Party of India (M)* **v.** *Bharat Kumar & Ors.*, **JT (1997) 9** H **SCC 101, referred to.**

CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 13029 of 1985 Etc. A

(Under Article 32 of the Constitution of India.)

Ashok Desai, Attorney General, M.S. Usgaonkar, Additional Solicitor General, Harish N. Salve, Mukul Mudgal, Ms. Indra Sawhney, B Deepak Dewan, A.K. Sharma, S. Wasim A. Qadri, A.D.N. Rao, Ms. Niranjana Singh, (P. Parmeswaran) for (MOEF), Rajiv Dutta, Hardeep Singh Anand, Shri Narain, Sandeep Narain, (M.C. Mehta) (NP) In-person, Ms. Seema Midha, S.N. Sikka, D.S. Mehra, (Ms. Anil Katiyar) for (Min. of Petroleum), D.K. Garg, Sanjeev Pabby, R.K. Maheshwari, Ms. Manju Bharti, R.K. Kapoor, P. Verma, S.K. Srivastava, B.R. Kapur, Anis Ahmed C Khan, Vijay Panjwani, (R. Sasiprabhu, Anees Ahmed, Aditi Singh) for (GAIL), Pradeep Misra, Ms. Niti Dikshit, Sanjay Parikh, Kailash Vasdev, Mahabir Singh, Ms. Sushma Suri, C.V. Subba Rao, Ashok Mathur, D.M. Nargolkar, V.B. Saharya, Ejaz Maqbool, R.P. Gupta, K.K. Gupta L.K. Panday, S.B. Upadhyay, S.R. Setia, Satish Aggarwal and Ranjit Kumar for D the appearing parties.

The following Order of the Court was delivered :

After hearing the learned *amicus curiae*, the Additional Solicitor General and the counsel representing certain other interests, we issue the E following further directions, namely.

(1) the figures in relation to issuance of commercial licences show that there is need to verify commercial licences, which were issued during the period 1993-95. We, therefore, direct that all commercial licences issued during the period 1993-95 be re- verified by the Transport Depart- F ment to weed out all such licences which have been issued without following the Rules.

(2) We are informed that a test has now been prescribed for issuance of new licences. We direct the Transport Department to prescribe a G suitable refresher training course as a condition for the renewal of any licence to drive a heavy vehicle.

(3) The grantee of a permit cannot (without express prior permission), under the provisions of the Motor Vehicles Act, either transfer his permit or to allow some other person to operate a vehicle on this permit. H

A Any such use of permits - which really constitutes a trading in permits - is a patent violation of the Motor Vehicles Act and the Rules and would render the permit liable to cancellation apart from other legal consequences. We direct the authorities not to renew any permit which has been or is being used by any person other than the original grantee, without the
B express prior permission of the grantee.

(4) We direct the Civic Authorities to take necessary steps to remove immediately all encroachments - temporary or permanent - on roads and pavements, which affect the smooth flow of traffic or obstruct the way of pedestrians. Stray cattle and other similar obstructions would also have to
C be similarly dealt with.

(5) The need for safety of school children travelling in buses requires that such buses be fitted with doors that can be shut. We, therefore, direct that on or after 31st January, 1998, no bus shall be used by an educational institution unless it is fitted with doors which can be closed. No educational
D institutions shall, after the said date, use a bus if it has an open door.

(6) Similarly, it is essential that, in addition to a driver, there is another qualified person in the bus who can attend to the children travelling in the bus. Rule 17 of the Motor Vehicles Rules, 1993 stipulates
E qualifications, duties and functions of a Conductor. It would be in the interest of safety to require the presence of a qualified conductor on board every bus that is being used by an educational institution. We are told that at present there is a paucity of trained conductors. We, therefore, direct that on or after 30th April, 1998, no bus used by or in the service of an educational institution shall be permitted to operate without a qualified
F conductor being present at all times.

(7) We are also informed that some schools have voluntarily requested the parents of their wards to accompany the buses so as to ensure that the drivers drive safely and the lives of the children are not put in
G jeopardy. We commend this action, and direct the Education Department to ask all schools including Government and Municipal schools to evolve a similar arrangement as far as possible, so as to ensure that in each bus there is at least one parent present who would be able to oversee the conduct of the driver. This step would go a long way in ensuring that the directions given as well as other safety measures prescribed are complied
H with in letter and spirit and that the driver drives carefully.

(8) One of the problems, which has been brought to our notice, is the overcrowding of buses. After hearing the views of the Transport Department as well as the Delhi Police (Traffic Wing), we feel it appropriate to direct that no bus belonging to or in use of any educational institution, shall seat children in excess of 1.5 times its registered seating capacity. Similarly, other modes of public transport, such as TSRs, taxis and other vehicles used for transporting the students of an educational institution should not be permitted to carry children more than 1.5 times their registered seating capacity.

(9) One of the major pollutants identified in the various affidavits as well as in the latest Status Report filed by the Government is the TSR (two seater rickshaw using a two stroke engine). We are further informed that although the existing figure of registered TSRs, as per the records, is approximately 83,000 : the actual number in use is far lesser since some of these permits have not been cancelled although the vehicles have been scrapped. It would be in the interest of the environment, to freeze the number of TSRs for the present at the level at which they are actually in use in the city. We, therefore, direct that there would be no grant of fresh permits in respect of the TSR, save and except by way of replacement of an existing working TSR with a new one.

(10) We direct the Police Commissioner to frame appropriate guidelines for regulating processions - religious, political or otherwise - which tend to obstruct the flow of traffic. These guidelines should be in conformity with the rights of the users of the roads and the exercise of fundamental freedom of other citizens indicated by this Court in its judgment in *Communist Party of India (M)* v. *Bharat Kumar and Others,* JT (1997) 9 SC 101.

(11) The Union of India is directed to file within two weeks the Action Plan for appointment of private persons to enforce traffic safety laws and confer upon such people suitable powers under the Cr. P.C. as well as under the Motor Vehicles Act. The Union of India would also file its response to the repeated suggestion made by the Traffic Police as well as the Transport Department for augmenting the uniformed force in the city.

(12) There are certain modifications called for in our earlier order dated 20th November, 1997, which we direct as hereunder :

A (i) In para A(a), add the following :

"Requirement for installation of speed control devices would also not apply to vehicles operating on All India Tourist Permits issued by the Transport Department, NCT of Delhi".

B (ii) In para A(f), the sentence commencing "no bus" and ending with "educational institution" shall stand substituted with the following."

"No bus belonging to or hired by an educational institution shall be driven by a driver who has -

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(a) less than five years of experience of driving heavy vehicles :

(b) been challaned more than twice in a year in respect of offences of jumping red lights, improper or obstructive parking, violating the stop line, violating the rule requiring driving within the bus lane, violating restricting the overtaking, allowing unauthorised person to drive :

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(c) been challaned/charged even once for the offence of over speeding, drunken driving and driving dangerously or for the offences under Sections 279, 337, 338 and 304-A of the Indian Penal Code.

E

All such drivers would be dressed in a distinctive uninform and all such buses shall carry a suitable inscription to indicate that they are in the duty of an educational institution".

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(iii) In para A(c), after the word "buses" add the words "heavy goods vehicles, medium goods vehicles, and 4-wheel light goods vehicles plying during the permitted hours.

G (iv) In para A(h), add the following :

"Needless to add, this is in addition to the statutory power conferred under Section 115 of the Motor Vehicles Act under which the authorities can prohibit or restrict any class of vehicles(s) from being used, *inter alia,* on any particular route or during any period of time.

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(14) The Transport as well as the Police Departments are directed to ensure that the contents of this order are duly publicised so that the people using roads are made aware of the restrictions imposed. They should also give publicity to the basic rules relating to safe driving, particularly those relating to user of bus lanes, changing of lane, overtaking and right of way on round abouts. We direct the Union of India to make available the necessary facilities in this regard, particularly in relation to the electronic media.

T.N.A. Petition is still pending.