

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No.32 of 2015**

Subas Muduli, Block -1, Room No.5, Street – 14, Sector – 2, Bhilai Nagar,
District Durg, Chhattisgarh

---- Petitioner**versus**

State of Chhattisgarh

---- Respondent

For Petitioner	:	Shri Kshitij Sharma, Advocate appears as Amicus Curiae
For State/Respondent	:	Shri A.S. Kachhawaha, Additional Advocate General

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board**Per Deepak Gupta, Chief Justice****13/6/2016**

1. “Wings to Fly ‘You were born with potential. You were born with goodness and trust. You were born with ideas and dreams. You were born with greatness. You were born with wings. You are not meant for crawling, so don't, you have wings. Learn to use them, to fly.”
2. These lines from the book “Wings to Fly” authored by Shri A.P.J. Abdul Kalam, former President of India, are aptly applicable to the facts of this case.
3. The wheels of justice were set in motion on account of a letter written by an unfortunate father who lost his young son aged about 4 years in a highly avoidable accident. This young boy was crushed under the wheels of a bus which was supposed to take him to his school where he was expected to learn and earn his wings to fly. Unfortunately, because of this accident, instead of flying, this young cherubic boy met an untimely end. The unfortunate father wrote a letter to the Chief Justice of this Court not claiming any compensation or any relief personal to him, but only praying that the Court may take action to ensure that such unfortunate accidents are avoided in the future.

4. Notice was issued by this Court on 3.8.2015 asking the State to file its reply as to what action it proposes to take. We place on record our appreciation for the positive attitude of the State. It did not treat the litigation as an adversary, but showed its sensitivity to the delicate matter in issue. The State has responded by amending the Motor Vehicles Rules, 1994. Rules 76B and 76C of the Chhattisgarh Motor Vehicles Rules, 1994 have been incorporated by the amendment and read as follows:

“76-B. Conditions for school bus permit.– Subject to the provision of sub-section (2) of Section 74 the following conditions shall be attached to every school bus Permit, namely :-

- (1) Each bus shall be painted in yellow colour and “School Bus” shall be written in front and rear of the vehicle under sub-rule (5) of rule 114 of Chhattisgarh Motor Vehicle Rules, 1994. The name, address and telephone/mobile number of the School shall be written on a 09 inch broad strip on outer side of the school bus on both the sides.
- (2) The buses shall have a horizontal grill fitted on the windows.
- (3) Each school bus shall have first aid kit and fire extinguisher.
- (4) Each school bus shall have an attendant trained in first aid, safety of students and in dealing with emergency situations who shall assist students in boarding and de-boarding.
- (5) The school buses shall be operated by such drivers who have held permanent driving license and have minimum five years experience in driving heavy vehicle.

Such drivers will not be employed who have been challaned on more than two occasions in one year for offences like violating lane system, violating signal lights or allowing an authorized person to enter. A driver who has been challaned even once for the offence of over speeding, drunken driving and dangerous driving shall not be employed. An affidavit to this effect shall be obtained by the educational institution from the driver of the vehicle.

- (6) Other than students, the school bus is permitted to carry only guardians of students or teacher of educational institution who may travel to check safety norms. No other person shall be allowed to travel in such buses.
- (7) Each school bus shall have space to keep school bags under the seat.

- (8) The School buses shall operate within the prescribed speed limited. Each bus shall be fitted with speed governor.
- (9) Each school bus shall have an emergency door on the right side which shall be closed properly and shall be opened only in emergency.
- (10) The doors of the school buses shall be fitted with reliable locking system.
- (11) Colored films on glasses and curtains shall not be used on the windows of the school buses. Security glasses as provided in rule 100 of the Motor Vehicle Rules, 1989 shall be used.
- (12) No pressure horn shall be fitted in school buses. During operation at night the school buses shall have blue color bulb fitted inside.
- (13) The school buses shall be regularly maintained and cleaned.
- (14) For contract vehicles, valid fitness certificate under Section 56 of the Motor Vehicles Act, 1988 (No.59 of 1988) shall have to be obtained.
- (15) Each school bus shall have valid insurance certificate, pollution control certificate and certificate of payment of taxes.
- (16) No school bus shall be more than 12 years old.

76-C. Conditions for permit of vehicles taken on hire by educational institutions for use as school bus.– Subject to the provisions of sub-section (2) of section 74 the following conditions for permit shall be attached to every vehicle taken on hire by educational institution for use as school bus, namely:-

- (1) “On School Duty” shall be written in contrasting color in front and rear of each vehicle. The name and other details of vehicles owner and driver of such vehicles shall be given to the police station having jurisdiction over the area where the school is situated.
- (2) The vehicles shall have a horizontal grill fitted on the windows.
- (3) Each vehicle shall have first aid kit and fire extinguisher.
- (4) Each vehicle shall have an attendant trained in first aid, safety of students and in dealing with emergency situations who will assist students in boarding and de-boarding.
- (5) The vehicles shall be operated by such drivers who have held permanent driving license and have minimum five years experience in driving heavy vehicle.

Such drivers will not be employed who have been challaned one or more than two occasions in the year for offences like violating lane system,

violating signal lights or allowing an authorized person to enter. A driver who has been challaned even once for the offence of over speeding, drunken driving and dangerous driving shall not be employed. An affidavit to this effect shall be obtained by the educational institution from the driver of the vehicle.

- (6) Other than students, the vehicle is permitted to carry only guardians of students or teachers of the educational institution who may travel to check safety norms. No other person shall be allowed to travel in such vehicles.
- (7) Each vehicles shall have space to keep school bags under the seat.
- (8) The Vehicles shall operate within the prescribed speed limit. Each bus shall be fitted with speed governor.
- (9) Each vehicle shall have an emergency door on the right side which shall be closed properly and shall be opened only in emergency.
- (10) The doors of the vehicles shall be fitted with reliable locking system.
- (11) Colored films on glasses and curtains shall not be used on the windows of the vehicles. Security glasses as provided in rule 100 of the Motor Vehicle Rules, 1989 shall be used.
- (12) No pressure horn shall be fitted in the vehicle. During operation at night the vehicles shall have blue color bulb fitted inside.
- (13) The vehicles shall be regularly maintained and cleaned.
- (14) For contract vehicles, valid fitness certificate under Section 56 of the Motor Vehicles Act, 1988 (No.59 of 1988) shall have to be obtained.
- (15) Each vehicle shall have valid insurance certificate, pollution control certificate and certificate of payment of taxes.
- (16) No vehicle shall be more than 12 years old.”

5. Shri Kshitij Sharma, Advocate, who was appointed as Amicus Curiae in this case by this Court, had made certain submissions in his written submission submitted on 14.9.2015.

6. We are *prima facie* of the view that the Chhattisgarh Motor Vehicles Rules, 1994 as amended cover almost all the issues raised by Shri Kshitij Sharma, Amicus Curiae. We on going through the Rules feel that the Rules as now framed would be helpful in curtailing and eliminating

accidents, of vehicles used to carry children to educational institutions.

7. Learned Amicus Curiae however points out that promulgation of the Rules is not sufficient. He submits that it is the duty of the State to ensure that the Rules are followed and implemented in letter and spirit. Learned Amicus Curiae has filed another written submission on 4.1.2016. Along with this submission, he has also annexed some photographs (Annexure A/1). First three photographs of Annexure A/1 show that a large number of students are being carried in auto-rickshaw. In one of the photographs, it is clearly visible that more than 9 students are being carried in the auto-rickshaw. The passenger carrying capacity of an auto-rickshaw is 3 plus 1 driver. Therefore, even in an auto-rickshaw engaged to carry children to school, not more than 4 persons including the driver can be transported. In another photograph, a van carrying school children is apparently overloaded. It is the duty of the police and the concerned authorities empowered under the Motor Vehicles Act to ensure that the Rules and Regulations as framed by the Union of India as well as by the State of Chhattisgarh are implemented in letter and spirit.

8. We therefore direct the concerned Regional Transport Authorities and the Superintendents of Police of each and every district in the State of Chhattisgarh shall be responsible for implementation of the Motor Vehicles Act, Central Motor Vehicles Rules and the Chhattisgarh Motor Vehicles Rules and they shall also ensure that rules regarding carrying of prescribed number of passengers and rules ensuring safety of children are not violated. Rules 76B and 76C of the Chhattisgarh Motor Vehicles Rules, 1994 should be enforced strictly.

9. There may be schools which cater to the less privileged sections of society, which may not be able to afford buses. The children studying in the schools may have to travel by cars, vans, auto-rickshaws and other such vehicles. It shall be the duty of the authorities to ensure that both the

Motor Vehicles Act and the Rules framed thereunder are followed and implemented in letter and spirit, so that the safety of the children studying in such schools is also ensured. We may add that Rules 76B and 76C of the Chhattisgarh Motor Vehicles Rules, 1994 cannot be permitted to be violated even by other operators who carry on the business of taking school children to school and back to their houses for money.

10. We further direct the Principal Secretary to the Government of Chhattisgarh, School Education Department to ensure that publicity is given to the Chhattisgarh Motor Vehicles Rules, 1994 as amended by way of publication of the relevant portion of the Chhattisgarh Motor Vehicles Rules, 1994 in print and electronic media. We further direct the said Principal Secretary that he shall ensure that a copy of this order along with the amended Rules 76B and 76C of the Chhattisgarh Motor Vehicles Rules, 1994 shall be sent to all the District Education Officers of the State and to all the Principals/Heads of the Schools running in the State of Chhattisgarh, and in turn, the Principals/Heads of the Schools shall ensure that their School Management Committees and the parents of the students studying in their Schools are made aware of this order of the Court and Rules 76B and 76C of the Chhattisgarh Motor Vehicles Rules, 1994.

11. We place on record our appreciation for the valuable assistance rendered by Learned Amicus Curiae Shri Kshitij Sharma, Advocate.

12. With the aforesaid directions, the petition stands disposed.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay K. Agrawal)
JUDGE