

CWP- 5288-2015

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: 04.05.2016

Balbir Singh and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 1) Whether Reporters of the local papers may be allowed
to see the judgment ? **YES**
- 2) To be referred to the Reporters or not ? **YES**
- 3) Whether the judgment should be reported in the Digest ? **YES**

Present: Mr. S.S.Salar, Advocate,
for the petitioner.

Mr. B.M.Vinayak, DAG, Punjab.

Mr. Anupam Singla, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J.

Instant writ petition has been filed under Articles 226/227 of
the Constitution of India for issuance of a writ in the nature of certiorari
quashing the letter dated 04.02.2015 (Annexure P-5) whereby respondent
No.2-State Transport Commissioner has issued directions to the District
Transport Officers for holding two days Refresher Course on road safety

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for drivers of Heavy Motor Vehicles (for brevity, 'HMV') in unorganized sector, at State Institute of Automotive and Driving Skills, Mahuana, Sri Mukatsar Sahib and further direction has been issued not to renew the driving licences of HMV/heavy transport vehicle drivers without undergoing the Refresher Course.

In pursuance of notice of motion, respondent Nos.1 to 3 and respondent No.4 have filed their separate replies. In its reply, respondent No.4 averred that it is the State Institute of Automotive and Driving Skills, set up at village Mahuana, District Sri Muktsar Sahib, by the State Government in collaboration with M/s Tata Motors Limited. The persons from the Government and M/s Tata Motors Limited are its members. The Institute is providing various types of training courses such as motor mechanic, electronics, diesel mechanic and welder. In addition to it, the Institute is also imparting driving training on car, LMV, HMV, earth moving equipment (excavators and JCB) etc., as required by the drivers for the licences under the provisions of the Motor Vehicles Act. For this reason, the Institute started two days Refresher Course on Road Safety.

Similarly, respondent Nos.1 to 3 in their reply averred that the Government of India, Ministry of Shipping, Road Transport and Highways has issued grants-in-aid to respondent No.4-Institute and directed respondent No.4 to impart training to HMV drivers and make them aware of the road safety measures, as required to them.

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I have heard learned counsel for the parties and perused the record.

The Hon'ble Supreme Court in ***S. Rajaseekaran vs. Union of India and Ors.*** 2014 (6) SCC 36 has directed the Ministry of Road Transport and Highways Safety for taking initiatives to curb road accidents in the country. In consonance with the directions issued by the Hon'ble Supreme Court in ***S. Rajaseekaran' case (supra)***, the Ministry of Road Transport and Highways (Road Safety Cell) accorded grants-in-aid to respondent No.4-State Institute of Automotive and Driving Skills, Mahuana, Sri Muktsar Sahib for conducting two days Refresher Course for 2500 HMV Drivers in unorganized sector during the year 2013-14, vide letter dated 04.02.2014 (Annexure R-2). The petitioners are aggrieved against the impugned letter dated 04.02.2015 (Annexure P-5) and are not even ready to undergo the two days Refresher Course for road safety. Road accidents are increasing day-by-day in India. In ***S. Rajaseekaran' case (supra)***, the Hon'ble Supreme Court has quoted the data and comparative statements of the accidents of various countries and has held as under:

“19. The total network of roads in India is approximately 47 lakhs kilometers which is possibly the second largest network in the world after the U.S.A. While Express Highways count for only 200 kilometers in length, National Highways measure 70,934 kilometers; State Highways 1,63,896 kilometers; other PWD Roads 10,05,327 kilometers and rural and other roads 27,49,805 kilometers. The statistics mentioned below would indicate the relative position with regard to the extent of road network; the vehicular population and

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the number of deaths that had occurred in the past years in road accidents in India and other countries like U.S.A., U.K., China etc. While the statistics available in respect of the USA may reflect a higher rate of accidents though a lower number of deaths (possibly due to more advanced after trauma facilities) the figures in respect of the U.K. and China highlights the magnitude of the problem in so far as India is concerned. In this regard it would require a specific mention that while the death rate in China, which had stood at par with India at a certain point of time, has shown a significant downward trend in case of India the said figures has shown a disturbing increase.

A - Data on RTAs

Country	Road network (km)	Number of vehicles	Number of Accident	Deaths	Serious injuries
India Source: "Accidental Deaths & Suicides in India, 2010", National Crime Records Bureau. Year: 2009	46,89,842	11,49,53,000	4,30,654	1,26,896	4,66,600
USA Source: US Census Bureau Year: 2009	65,86,6 10	25,41,66,000	1,08,00,000	33808	22,17,000
UK Source: Department for Transport Year : 2009	3,94,428	3,42,00,000	1,64,000	2222	2,20 000
China Source: "Global Status Report on road safety, 2013",	41,06,387	20,70,61,286	-	70134	-

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WHO. Year: 2010					
Brazil Source: "Global Status Report on road safety, 2013", WHO. Year: 2010	15,80,964	6,48,17,974	-	37594	--

*B - Data of relative figures in respect of China & India
(Source : "Statistical Year Book of India - 2014" published by
the Ministry of Stastics and Programme Implementation)*

Number of Road Accidents

<i>Year</i>	<i>China</i>	<i>India</i>
2004	5,17,889	4,29,910
2005	4,50,254	4,39,255
2006	3,78,781	4,60,920
2007	3,27,209	4,79,216
2008	2,65,204	4,84,704
2009	2,38,351	4,86,384

Number of Persons Killed

<i>Year</i>	<i>China</i>	<i>India</i>
2004	1,07,077	92618
2005	98738	94968
2006	89455	1,05,749
2007	81649	1,14,444
2008	73484	1,19,860
2009	67759	1,25,660

*20. The facts mentioned above would leave no room for
doubt that Indian roads have proved to be giant killers*

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demanding immediate attention and remedial action. Such attention and necessary intervention, in the first instance, is required to be made by the concerned Governmental agencies. While there is no reason for any skepticism over the abundant concern shown by all concerned to the issues highlighted and also the attempted solutions both in the field of law enforcement as well as amendments in the law, besides limited experiments in providing better after trauma care, for reasons that need not detain the court, the results so far have not been very encouraging. The accident and casualty graphs continue to run on an even keel over the last several years.

21. An accident is an incident that happens unexpectedly and unintentionally. It is occasioned either by human failure or human negligence. Viewed from the above perspective and also thorough hindsight every road accident is an avoidable happening. The history of humankind has been one of conquests over the inevitable. The resignation to fate has never been the accepted philosophy of human life. Challenges have to be met to make human life more meaningful. This is how the constitutional philosophy behind Article 21 has been evolved by the Indian courts over a long period of time. It is this process of development and the absence of significant and meaningful results from the Governmental action till date that impels us to delve into the realms of the issues highlighted by Dr. Rajaseekaran in the present writ petition under Article 32 of the Constitution.

22. Having considered all the relevant facts and also the suggestions that have come from the different quarters it appears to us that the four-dimensional approach that the Government had earlier attempted by setting up four different working groups to go into the four issues of road safety, namely, enforcement, engineering, education and emergency care would be the best manner to approach the issues arising. We, therefore, intend to adopt the same in the exercise proposed to be undertaken.”

The data quoted in **S. Rajaseekaran' case (supra)** clearly shows that number of road accidents are increasing every year in India

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whereas they have started decreasing in China. The Refresher Course in question has been started for the benefits of the drivers and others plying on roads and a nominal fee is being charged from them. It has been specifically denied in the reply that exorbitant fee is being charged from the drivers for two days Refresher Course.

No doubt, the object of Refresher Course for drivers is to inform them about the road safety skills and methods so that number of road accidents resulting into deaths and severe injuries be reduced. The Central Government and the State Government are making efforts to provide proper training to the drivers at nominal fee and major part of the expenses is being funded by the Government of India to respondent No.4-Institute. It is also mentioned in the impugned letter dated 04.02.2015 (Annexure P-5) that for renewal of HMTV licence, two days Refresher Course is necessary. The aforesaid Refresher Course is in the interest of the drivers as well as general public and only with a view to achieve the objective as contained in the directions issued by the Hon'ble Supreme Court in *S. Rajaseekaran' case (supra)*.

The petitioners have demonstrably failed to establish that the impugned letter is patently in violation of statutory provisions or is so unfair and unreasonable that it shocks the conscience of the Court or in any manner contrary and in conflict with the public policy and public interest. If the drivers, specifically heavy motor vehicle drivers, are imparted proper training at authorized institutes run by the State or

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Central Government, then it would certainly be helpful in reducing the number of accidents. Perhaps with this profound hope, the Government has issued this letter.

In view of above, I do not find any ground to interfere with the impugned letter dated 04.02.2015 (Annexure P-5).

Dismissed.

Costs made easy.

04.05.2016

parveen kumar

(Paramjeet Singh Dhaliwal)
Judge