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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.28 OF 2013
WITH
CIVIL APPLICATION (ST) NO.25308 OF 2017 WITH
CIVIL APPLICATION (ST) NO.30305 OF 2017 WITH
CIVIL APPLICATION (ST) NO.30456 OF 2017 WITH
CIVIL APPLICATION NO.109 OF 2017 WITH
CIVIL APPLICATION NO.110 OF 2017

Shrikant Madhav Karve

... Petitioner

Vs.

State of Maharashtra and Ors.

... Respondents

Mr. Uday P. Warunjikar, Advocate appointed as Amicus Curiae.

Mr. Shrikant Madhav Karve, Petitioner in person in PIL/28/2013 and Applicant in person in CAI 54/2014, CAI/133/2014, CAI/38/2017 and CAI/39/2017.

Mr. A.B. Vagyani, Government Pleader a/w Mr. Manish M. Pabale, AGP, Mr. R.S. Sawant, A.A.G.P For Respondent Nos.1 to 3 in PIL and for Applicant in CAI/40/2014, CAI/88/2016, CAI/107/2016 and CAI(ST)/30305/2017.

Mrs. S.V. Bharucha and Mr. Dhanesh Shah i/by Mr. A.A. Ansari for Respondent No.5.

Mr. G.S. Godbole a/w Ms.Shruti Tulpule and Ms. Nikita Jacot for Applicant in CAIST/25308/2017.

Mr. Atul G. Damle, Senior Advocate a/w Mr. P.Y. Shankar and Ms. B. Pooja for Applicant in CAI/110/2017.

Mr. Gopal Krishna Shivaram Hegde and Mr. P.B. Kadam for Applicant in CAI/38/2013 and CAI/109/2017.

CORAM : A.S. OKA &
A.K. MENON, JJ.

DATE : 17th NOVEMBER, 2017

P.C.

1 Public Interest Litigation No.28 of 2013 has been specially assigned to a Bench presided by one of us (A.S.Oka, J.) for monitoring compliance with the directions issued under the final Judgment. The Public Interest Litigation is already disposed of by a judgment and order dated 18th February, 2016 and the said PIL is being listed from time to time only for reporting compliance with the directions contained in the final judgment. One of the applications which is on board is by the State for grant of extension of time to comply with certain directions issued in the final judgment. The other applications are for intervention. The aforesaid judgment has become final.

2 The most important direction issued by this Court while disposing of the PIL by the judgment and order dated 18th February, 2016 is clause (a) of paragraph 49 which reads thus :-

“(a) We direct all the Regional Transport Offices in the State to scrupulously follow the provisions of Rule 62 of the Central Rules and other connected Rules specified in Paragraph 25 above while testing transport vehicles for the purposes of grant of fitness certificate and for renewal of fitness certificate. While checking the public service vehicles and especially buses having sleeper berths, compliance with the provisions in Chapter VII of the State Rules and in particular Rule 183A of the State Rules will have to be made.”

3 The Central Rules and State Rules contemplate various kinds of tests to be conducted before issuing a fitness certificate. Rules have been enlisted in paragraph 25 of the judgment. Rules 96 onwards of the Central Rules deal with conduct of brake tests in respect of various categories of vehicles. Sub-rule (8) of Rule 96 is referred in the judgment which lays down the manner in which brake test of various vehicles is to be conducted. The judgment refers to sub-rule (1) of Rule 62 which provides that renewal of a fitness certificate shall be made only after the Inspecting Officer carries out the tests as specified in the table given in Rule 62 which provides for checking of the condition and testing of various equipments as provided in various Rules as indicated in the remark column in the Table. Perusal of various interim orders passed in the PIL and the final judgment will show that the Rules relating to conduct of fitness tests are being observed in the State of Maharashtra only in breach.

4 Paragraph 33 of the judgment deals with an important aspect. The relevant Rules provides that dry level hard road in good condition is required for conducting brake tests. In paragraph 33, this Court held that the affidavits on record show that a dry level hard road in good condition is not available in the Regional Transport Offices (RTOs) or in the vicinity of the RTOs in the State. It is in this context

that for facilitating the substantial compliance with the Rules relating to testing of vehicles with special reference to the brake tests that directions were issued in clauses (f) and (g) of the operative part of the judgment for making available tracks for brake testing. Clauses (f) and (g) read thus :-

- (f) We direct the State Government to make available a track as provided in Central Rules having the length of minimum 250 meters for each RTO. The tracks shall be provided in the close vicinity of the existing offices;
- (g) We make it clear that no public road shall be used as a track after expiry of period of six months from today and the State Government shall provide tracks as directed above to each RTO within a period of six months from today;”

5 The period of six months provided in clause (g) expired on 17th August, 2016. While monitoring the compliance with the directions, this Court went on extending the period provided in clause (g) from time to time as is apparent from various orders passed from time to time. As far as the direction contained in clause (g) is concerned, we must note here that the State Government filed Civil Application No.64 of 2017 seeking extension of the period provided in clause (g). By a detailed order dated 14th September, 2017 the Civil Application was disposed of. The detailed order passed on the said Civil Application shows that there was hardly any compliance with the directions contained in the clause (f) by the State though time granted

under the judgment had expired in August, 2016. The said order notes that out of 49 RTOs in the State where such compliance was required to be made, only in relation to seven offices a provision was made for separate tracks for brake testing. Thus, the said order records non-compliance with the directions issued in the judgment. However, this Court took a lenient view. Paragraphs 9 to 12 of the said order read thus :-

- “9. Clause (g) of the operative part contains a self-operative direction. On the failure of the State to provide tracks for testing of brakes within the time specified therein, the testing of vehicles for fitness certificates cannot be done in the said offices. Notwithstanding the gross delay on the part of the State Government in making compliance, we propose to grant a reasonable time to the State to comply with the directions. While we do so, we are putting the State to the notice that under no circumstances, further extension will be granted and what is granted under this order will be the final extension.
- 10 The fact that we are granting extension of time cannot be construed to mean that the officers of the concerned Regional Transport Offices are under no obligation to conduct brake tests as required by the Central Rules and in particular as provided in Rule 96. Though prayer for extension of time relates only to four RTO offices in Mumbai, by taking a liberal view, we are extending time as regards other RTO offices in the State as well.
- 11 While we are granting reasonable extension, we must note here that such a long delay on the part of the State is without any justification at all and the State ought to have complied with the directions long back.
- 12 Accordingly, we dispose of this application by passing the following order :

ORDER

- i) Time for making the brake test tracks fully functional as regards 32 offices mentioned in paragraph 3 of the affidavit of Shri. Manoj Sounik dated 13th September, 2017, is finally extended till 31st October, 2017 ;
- ii) As regards the offices at Sangli, Gondia, Akulj, Satara and Thane, time to make the brake test tracks functional in terms of the final Judgment is finally extended till 31st January, 2018 ;
- iii) As regards four offices in Mumbai and in Nagpur (City), time to provide functional brake test tracks in terms of the final Judgment is finally extended till 30th April, 2018 ;
- iv) We make it clear that under no circumstances and on no ground, further extension will be granted to the Applicant. We also make it clear that on the failure of the State to provide tracks to any of the Regional Transport Offices within the extended time, the prohibition imposed by the clause (g) of the operative part of the Judgment will operate with all force and the work of testing vehicles for grant or renewal of fitness certificate will have to be forthwith stopped in the concerned offices ;
- v) The Civil Application is disposed of in the above terms.”

6 As stated earlier, clause (iv) provides that the extension granted by the said order will be the final extension. As we have noted earlier, clause (g) of the operative part of the judgment contains a self-operative direction. We must note here that the main judgment disposing of PIL under which the aforesaid directions were issued was never challenged by the State and in fact the affidavits placed on record show that the State Government accepted the said judgment and made

some attempts to implement some of the directions issued. Even the order dated 14th September, 2017 in Civil Application No.64 of 2017 has become final. Notwithstanding the said order, now there is a fresh application by the State Government being Civil Application (St) No.30305 of 2017 for grant of further extension of time. As a result of the failure of the State Government to abide by the extended time fixed under the order dated 14th September, 2017, the conduct of the fitness tests in several RTOs of the State was required to be stopped. Though the said order dated 14th September, 2017 records that even at that time there was no justifiable reason for extension of time, as stated earlier, this Court showed leniency and extended the time. Now, in the present application, extension of time is sought to provide tracks having length of 250 meters at 32 offices. On 14th November, 2017 the State Government has filed an affidavit-cum-undertaking of Shri Shridhar Vasant Aralikal, the Deputy Secretary (Buildings), Public Works Departments. Paragraphs 2 to 7 of the said affidavit read thus :-

“2. I further say that, the P.W.D. has undertaken the construction of brake testing track and details are as below :-

Total No. of Brake Test Tracks to be constructed	40 Nos.
Completed Brake Test Tracks	19 Nos.
Shifted to other locations	1 No.
Entrusted to other authorities	1 No.

Total	21 Nos.
Balance to be completed	19 Nos.

3. The schedule of balance works to be completed and reasons for delay for the same are as below :-

Sr. No.	Location	Date on which work will be completed	Reasons for Delay
1	Osmanabad	15.11.2017	Delayed monsoon
2	Kolhapur	15.11.2017	Delayed monsoon
3	Pune	15.11.2017	Delayed monsoon
4	Baramati	15.11.2017	Delayed monsoon
5	Ahmednagar	15.12.2017	BTT is proposed in ongoing RTO building premises. Initially BTT of 70 m. length was proposed and later decided to construct 250 m. long, hence the location was revised on 10.08.2017. The land is BC Soil, hence work could not be executed during monsoon.
6	Shrirampur	15.12.2017	BTT in Concrete is proposed. All other works are completed except Concreting. Sand required for concreting could not be available due to floods
7	Karad	15.12.2017	40 m length of BTT is in hard rock. The decision to do the work in hard rock has been taken by user department in month of October 2017

8	Bhandara	15.12.2017	The land was low level and undulating requiring more time and delayed Monsoon
9	Jalgaon	15.12.2017	Approach road of 670 m & BTT of 250 m is proposed. Approach road was required to be taken through Private Land
10	Chandrapur	15.12.2017	Access through forest land received permission from Forest Deptt on 3.10.2017
11	Pen	15.01.2018	Land is made available by user department on 18.10.2017
12	Sindhudurg	15.01.2018	Land is made available by user department on 20.07.2017
13	Washim	15.01.2018	No response for first two calls. Tenders are received in response to third call and work order will be issued on 10.11.2017
14	Vashi	31.01.2016	Tenders opened on 31.10.2017 are approved and work order is being issued
15	Sangli	31.01.2018	Tendering in progress
16	Parbhani	31.03.2018	Tendering is in progress
17	Beed		Land Dispute – Court Case
18	Gadchiroli		Land Dispute – Court Case

4. I say that, for the places mentioned at sr.17 to 19, the Transport Department has taken over possession of the land for the construction of brake testing track but the concerned owners has filed Suits in Civil Court against the Government and the Public Works Department could not commence the construction.

5. I say that, considering the aforesaid the Public Works Department has tried to comply with the directions of the Hon'ble High Court. Accordingly, 19 works have been completed by Public Works Department till today and balance 19 works will be completed on the dates mentioned in para 3.
6. I say that the construction of brake testing track was delayed at some locations due to peculiar circumstances.
7. I undertake that, the construction of remaining brake testing tracks will be completed as per the list provided in para 3 hereinabove. I say that the delay caused in construction of brake testing track is not deliberate and intentional.”

7 Yesterday, the learned AGP has filed on record a report signed by the various officers indicating that testing tracks have been provided at Kolhapur, Pune, Baramati and that the tracks have become functional. As far as Osmanabad is concerned, the report shows that work of concreting the track has been completed and the track can become functional in 7 days. The learned Amicus Curiae submitted that as per the requirement of the Rules, there cannot be a concrete track. At this stage, we are not going into the said aspect. We presume that the State is conscious of the requirements of the Rules.

8 We are constrained to observe that even in the present application, there is no cogent reason set out as to why the State Government has not made compliance with the directions which ought to have been complied with by August, 2016. As a result of the complete failure of the State machinery in providing brake testing tracks in the RTOs subject matter of Civil Application (St) No.30305 of 2017, the conduct of fitness tests was required to be stopped in various offices which may have caused inconvenience to the transporters and citizens. For this inconvenience, the State must take the entire blame. The requirement of having separate tracks for testing of brakes was not spelt out for the first time in the final judgment but the same requirement has been laid down by this Court in various interim orders passed from time to time. As stated earlier, there is a complete failure on the part of the State when it comes to providing elementary facility of brake testing tracks as required by the Rules. The said requirement is not invented by the Court, but it finds place in the Central Rules which have come into force long back in the year 1989. Subsequent part of this order will show that even as of today, there is a complete neglect on the part of the State machinery and fitness certificates are being issued without conducting mandatory tests. Therefore, there would have been every justification for the Court to reject the present Civil Application filed by the State. There is only one factor which weighs with us for

considering the prayer favourably. There is an undertaking given on behalf of the State Government by Shridhar Vasant Aralekar which we have quoted earlier. The learned Government Pleader states that the undertaking of Shri Aralekar is on behalf of the State Government and that he has been duly authorised to file the undertaking which he has filed on behalf of the State. We accept the said statement. As regards the locations at Pune, Kolhapur and Baramati, the undertaking is substantially abided by. Paragraph 3 of the undertaking incorporates a time-line for providing tracks at various places. The time provided for Ahmednagar, Shrirampur, Karad, Bhandara, Jalgaon and Chandrapur expires on 15th December, 2017. In case of rest of the offices, the time is sought till 15th January, 2018, 31st January, 2018 and 31st March, 2018 respectively. Though we are extending the time to provide separate brake testing tracks as per the undertaking, we must make it clear that even if the State fails to comply with the undertaking as regards even one location where tracks have been undertaken to be provided by 15th December, 2017, the order which we propose to pass will stand vacated and the prohibition provided in clause (g) will operate with full force as regards all the locations.

9 Before we turn to the other Civil Applications, we must also mention here certain shocking state of affairs. On the earlier date, the

petitioner appearing in person tendered certain information received by him which showed that one Shri Dilip S. Mane, Inspector of Motor Vehicles who was posted in a place in Solapur District conducted fitness tests on several vehicles in the RTO at Alandi Road at Pune. The location reflected from the documents tendered by the petitioner appearing in person showed that Shri Dilip S. Mane was at the relevant time, assigned the duty at Border Check Post, Nandani, District Solapur which is admittedly located at a distance of 250 kilometers from Pune. The learned Government Pleader tendered a copy of the report dated 12th November, 2017 submitted to the Transport Commissioner of the Government of Maharashtra. The said report was tendered on 14th November, 2017 which indicated that what was pointed out by the party in person was absolutely correct. There is a further report submitted by Shri Satish B. Sahasrabudhe, Additional Transport Commissioner, Maharashtra State, Mumbai. We must note here that Shri D.S. Mane issued fitness certificates to 3, 25, 24 and 22 vehicles respectively on 9th July, 2017, 25th July, 2017, 26th July, 2017 and 27th July, 2017. It was shown by Shri Mane that the said vehicles were tested in the RTO at Pune. However, the reports placed on record reveal that Shri Mane purported to conduct tests in a private property described as Bajaj Electricals and LG Electricals warehouse, Alandi Phata, Lonikand, Pune. First report placed on record shows that there is no footage of

video recording of any tests conducted by Shri Mane. First report also records that between 1st July to 31st July, 2017 Shri Mane was posted at the check post at Nandani at District Solapur. It also records that out of 74 vehicles to which fitness certificates were purportedly issued by Shri Mane, 62 vehicles belong to the same Company M/s.Geekom Logistics. Shri Mane claimed that he had taken oral permission of Shri Vinod Sagare who is the Superior Officer in the RTO at Alandi Road, Pune. On earlier date, the learned Government Pleader stated that a warning has been issued to Shri Sagare and Shri Mane has been suspended. Further report of Shri Sahasrabudhe shows that he personally visited the premises of Bajaj Electricals and LG Electricals at Alandi Road, Lonikand, Pune when he found that in the premises (warehouse), goods of Bajaj Electricals and LG Company are being stored which are transported by M/s. Geekom Logistics. The stretch of road available within the company premises was about 100 meters and it stretches outside the compound by about 200 meters. It is stated that there was nothing to show that Head Light Beam Analyzer was available in the said compound. The report records that all 74 vehicles were declared to be fit to ply on road by Shri D.S.Mane. The report further records that RTO at Pune has cancelled the fitness certificates issued in respect of the said vehicles by Shri Mane and an instruction has been issued to check whether the vehicles are plying on the road. Various details are

mentioned in the report. He made random checking on few dates from April, 2017 to October, 2017 to find out whether any such incident has occurred in RTO, Pune. On those selected dates, he found that only those officers have carried out the fitness tests who were posted in the said office. The said report brings on record shocking state of affairs as regards non-availability CCTV cameras. Factual statements made therein show that the claim of the State of the availability of CCTV cameras is factually incorrect. The available cameras are not in use from 1st November, 2017 in the RTO at Pune. Various conclusions have been recorded in the report of Shri Sahasrabudhe. The report records that there was no proper brake testing track available in the premises where 74 vehicles were tested by Shri Mane. He found that Headlight Beam Analyser was not available. However, he has not mentioned whether any of the tests which are required to be conducted as per the Central Rules were conducted in respect of the said vehicles.

10 Clauses (i) and (j) of the said report are very important. The Transport Department will have to take immediate call on what is set out in the said clauses. The last suggestion given by him is that “for effective supervision of fitness certification, the 'Vahan 4.0' should enable supervising authority to assign duties to IMVs and the vehicles that they are supposed to inspect on a given day, electronically through the system software”.

11 Thus, with a great deal of distress, we record that the directions issued by this Court in the final judgment and order are have been completely set at naught. If the petitioner appearing in person had not pointed out as to what was done by Shri Dilip S. Mane, the State would never have realised the fraud played by Shri Mane. We are aware that the matter is being investigated by the State. But at this stage, it is impossible to accept that the Superior Officers working in the RTO at Pune were ignorant about what Shri Mane has done on four days in July 2017. Thus, what transpires is that an officer of RTO who was posted in July, 2017 at a place which was at a distance of 250 kms from RTO at Pune came to Pune and purportedly conducted fitness tests on 74 vehicles in a private property on 4 different dates in July, 2017. The so called fitness certificates were acted upon. The petitioner appearing in person pointed out that there may be several such instances in the State. The report submitted by Shri Sahasrabudhe to which we have made an extensive reference indicates that it is possible for one officer of RTO posted at particular place to enter details of fitness test in the record of other RTO and there are no checks on this aspect.

12 The petitioner appearing in person also placed on record the information provided to him under RTI on 27th October, 2017. The

information is supplied by the Assistant Regional Transport Officer, Ratnagiri. The information is about the Transport vehicles which were registered at places other than Ratnagiri being tested for fitness in Ratnagiri District. The information reveals that several vehicles which were registered in other districts were tested in various camps conducted at various places in Ratnagiri District where facility of video recording was not available. It is claimed that the video recording is available only at the District Headquarters. The information shows that on the basis of no objection certificate purportedly granted by RTO, Thane large number of transport vehicles owned by Siddhivinayak Logistics Pvt. Limited have allegedly undergone fitness tests in Ratnagiri District. The Joint Commissioner of Transport has submitted a report on this aspect. He has noted that camps were conducted at 8 places in addition to the camp at Ratnagiri. It brings on record that at all 8 places excluding Ratnagiri, there is no facility of video recording. He has noted that 129 vehicles were tested on the basis of no objection certificates obtained from the offices at Thane, Navi Mumbai and Pune. He has also recorded that at Ratnagiri, Chiplun and Dapoli, test tracks having length of 250 meters are available. As a track is not available at Khed, vehicles are being tested on a road in Chiplun MIDC. He has accepted that there is a clear irregularity in conducting tests at Khed, Chiplun and Dapoli though video shooting facility was not available. His report

is based on examination of the record. There is no explanation as to how large number of transport vehicles owned by the same Private Limited Company (Siddhivinayak Logistics) were brought to Ratnagiri District for testing in a short time span.

13 Though the State has claimed that there are video cameras available in all RTOs which record conduct of various tests, the report which is referred above shows that the said claim is completely incorrect and there is a complete failure on the part of the State Government to implement the directions regarding providing video cameras.

14 Considering the reports which are brought on record as regards Pune and Ratnagiri, the entire issue calls for in-depth enquiry by the Senior Officer of the State. The learned Government Pleader pointed out that the seriousness of the issue has been brought to the notice of the highest officers of the State as well as the Hon'ble Minister in-charge of the concerned department and a meeting will be shortly convened by the Hon'ble Minister to deal with the issue. Today, he states that the Joint Commissioner of Transport Shri Mahajan can be appointed to conduct in-depth enquiry. We have already referred to the report submitted by Shri Sahasrabudhe and in particular the concluding

part. As stated earlier, the suggestions made by him require immediate consideration at the hands of the Authorities. The report indicates that one officer of RTO who is posted at a particular place can access the system and make data entries of the tests in the record of another RTO. That is how Shri Mane could make data entry of grant of fitness certificate to 74 vehicles as recorded in the report.

15 We, therefore, propose to direct the Chief Secretary of the State to appoint a Senior IAS officer to look into the entire episode at Pune and Ratnagiri and to ascertain whether in various offices of RTO in State, vehicles especially the transport and/or heavy vehicles are being properly tested in accordance with the Central Rules before grant of fitness certificates. Senior Officers of the Transport Department including Shri Mahajan can be appointed to assist the Senior IAS Officer. Random check of the records will have to be made. Moreover, immediate steps will have to be taken to ensure that only those officers who are entrusted with the duty of conducting fitness tests in a particular RTO office are in a position to make data entries regarding fitness tests and that also after conducting fitness tests in accordance with Rules. The officer so appointed by the Chief Secretary will have to also go into the question whether sufficient video cameras have been installed in RTO offices in the State which are adequate to record

conduct of various tests which are undertaken before issuing fitness certificate.

16 In Civil Application (St) No.25308 of 2017 filed by the Executive Officers' Association (RTO), Maharashtra State the manner in which the video cameras are being used in some of the RTOs has been set out. These averments will have to be looked into by the officers appointed by the State Government. The learned counsel appearing for the applicant has made a solemn statement on instructions that the object of filing such application is to ensure that the directions issued in the judgment are implemented in its true letter and spirit. The learned counsel invited our attention to the provisions of Section 115 of the Motor Vehicles Act, 1888 and certain provisions of the Maharashtra Police Act, 1950 which enable certain Authorities to restrict or prohibit driving of motor vehicles of any specified class on a particular road for a specified road. The suggestion is that if the said Authorities exercise the power, brake tests can be conducted on the said stretches of roads. We do not find from both the provisions that the powers therein can be exercised for the purposes of allowing RTO officers to conduct brake tests on the public roads. The powers are required to be exercised in different contingencies and therefore, we are unable to issue any direction concerning invoking the said provisions. As a statement has

been made by the applicant that they want to assist the Court for implementation of the directions, today, we are not disposing of this Application.

17 As stated earlier, it is impossible for us to believe that the superior Officers posted at Pune were unaware of the activities of Shri Mane. The officer in-charge has been let off by only giving a warning. Even this aspect will have to be looked into by the Senior Officers appointed by this Court.

18 There is a Civil Application No.30456 of 2017 filed by Suraksha Foundation for intervention. We cannot permit intervention in by this organisation in a disposed of PIL. If the applicant has any suggestion regarding effective implementation of the directions of this Court, the applicant can always made a proper representation to the appropriate offices of the Transport Department.

19 Civil Application No.109 of 2017 has been filed by the Federation of Bombay Motor Transport Operators. The said application has been filed for seeking intervention and for seeking a direction to find via media/ method for issuance of Fitness Certificates in the event of unavailability of brake testing tracks. Civil Application No.110 of

2017 is filed by the Western India Bulk LPG Transporters Association again for intervention and for modification of clause (g) of paragraph 49 of the operative part of the final judgment and order dated 18th February, 2016 till such time the testing tracks of length of 250 meters are made available. There are further directions sought for modification of circular dated 31st October, 2017. Both the applicants are the Associations of Transport Operators. Interim orders passed from time to time in the main PIL and directions issued after disposal of the PIL show that mandatory Rules regarding testing of vehicles for issuing fitness certificates were observed only in breach in the State and that position prevails till today. Both the Associations could have come forward long back and brought to the notice of the Court and all the concerned Authorities that there is no proper testing of the vehicles before issuing fitness certificates. Perhaps, in both the cases, the real reason for filing of the applications appears to be that testing of vehicles at certain RTO offices was required to be stopped as per the order dated 14th September, 2017 in Civil Application No.64 of 2017. In fact, we had called upon one of the applicants to produce copies of the representations, if any, made to the State Government inviting attention of the State to the illegalities committed by various RTO officers. However, no such representation has been placed on record. Apart from the fact that in a disposed of PIL intervention cannot be permitted, we

find that the applicants have not sought intervention with the object of ensuring that all tests as contemplated by Central Rules are scrupulously conducted. Therefore, we are not inclined to entertain the said applications.

20 We may note here that there are several other compliances which are required to be made by the State. We are not dealing with the same at this stage. As regards compliances to be made by the Government of India, there is an affidavit placed on record by the learned Additional Solicitor General of India. At this stage, no further directions are warranted against the Government of India insofar as the implementation of the final judgment is concerned.

21 Hence, we pass the following order :-

ORDER

- (i) Civil Application No.109 and 110 of 2017 are rejected;
- (ii) Civil Application (St) No. 30305 of 2017 is disposed of by accepting the undertaking of Shri Shridhar Vasant Aralekar dated 14th November, 2017 as undertaking of the State Government. The undertaking is accepted subject to condition of the State Government filing a further undertaking that tracks will be provided at Beed,

Gadchiroli and Vasai on or before 31st March, 2018. If such further undertaking is not filed by the Competent Officer of the State within a period of 1 week from the date on which this order is uploaded, the order passed on the Civil Application will stand vacated;

- (iii) Time to provide functional brake testing tracks at Osmanabad is extended till 22nd November, 2017. Time is granted to the State Government for providing brake testing tracks at Ahmednagar, Shrirampur, Karad, Bhandara, Jalgaon and Chandrapur till 15th December, 2017. Time is granted to the State Government to provide brake testing tracks at Pen, Sindhudurg, Washim till 15th January, 2018. Time is also granted to the State Government to provide tracks at Vashi and Sangli till 31st January, 2018. For Parbhani, time is granted till 31st March, 2018. As regards compliance with Ahmednagar, Shrirampur, Karad, Bhandara, Jalgaon and Chandrapur, affidavit of compliance shall be filed on or before 19th December, 2017. We make it clear that if compliance is not made in respect of even one location, the extension granted as above in respect of the concerned RTO will

automatically stand vacated and clause (g) of the operative part of paragraph 49 of the directions in the main judgment will come into force in relation to those offices. We make it clear that the directions issued in clauses (II) and (III) of paragraph 12 of the order dated 14th September, 2017 in Civil Application No.64 of 2017 continue to operate;

- (iv) In view of the discussion made earlier, we direct the Chief Secretary of the State to appoint a Senior IAS officer to look into the aspects indicated in the body of this order. As stated earlier, appropriate officers including the Joint Commissioner of Transport can be appointed to assist him. Apart from what is observed in the order, the officers appointed shall look into all aspects of compliance with the directions issued by this Court as regards conduct of fitness tests. They will have to also consider whether an action is being taken by the State Government against the erring officers and whether the action which is assured is taken to its logical conclusion. The officers so appointed shall immediately look into the suggestions made by Shri Sahasrabudhe in

his report to which we have made extensive reference so that there is no repeat of the incident which happened at Pune;

- (v) We direct the State Government to file an affidavit reporting compliance with the direction of appointing a Senior IAS Officer. We direct that such an affidavit shall be filed on or before 16th December, 2017. Affidavit to state the outer limit within which the said Officer will submit a detailed report. We are not deliberately restricting the scope of enquiry entrusted to the said officer so that the officer is free to go into all aspects of compliance of the directions issued by this Court. If the said officer feels that the report to be submitted to the Court contains confidential information, he is free to submit the report in a sealed envelope for perusal of the Court;

- (vi) There is one more aspect which we want to reiterate. If all the interim orders as well as the directions contained in the final judgment are perused, all that this Court has directed is that considering the aspect of road safety and

safety of citizens, the mandatory provisions which are incorporated in the statutory Rules for testing of vehicles for issuing fitness certificates are scrupulously followed. There is no reason for the State to take this litigation as an adversarial litigation. In fact, the final directives issued in the judgment show that there are various directions issued to ensure that various kinds of facilities including providing additional staff is made available to the Transport Offices in the State. Even the directions issued to the Union of India are to ensure smooth functioning of the Transport Department of the State. We hope and trust that as the complete failure of the State machinery to abide by the directions issued by this Court has been brought to the notice of the Hon'ble Minister, now the State will not treat this litigation as an adversarial litigation and will take prompt steps;

- (vii) In the final judgment cost of Rs.50,000/- was ordered to be paid to the petitioner appearing in person. Further affidavits filed on record and orders passed by us from time to time will show that in very adverse circumstances, the petitioner has raised several issues

concerning breach of Rules dealing with the conduct of fitness tests. The orders and the documents placed on record will show that repeatedly he took recourse to the provisions of the Right to Information Act, 2005 and obtained vital information. Only because of his efforts that fraud played by one officer at Pune could be detected. Considering the nature of prayers made in the Petition, the nature of the directions sought and nature of directions issued, the petitioner has absolutely no personal interest. He has attended the Court on several occasions after disposal of PIL though he is a resident of Pune. Considering the role played by the petitioner, as a condition precedent for allowing Civil Application (St) No.30305 of 2017, we direct the State Government to pay costs quantified at Rs.1 lakh to the petitioner appearing in person. The amount shall be paid within a period of one month from today. We are issuing this direction as the petitioner must have incurred huge expenditure on travelling and on applying for information under the Right to Information, 2005. Something which ought to have been done by the officer of the State is being done by a citizen;

(viii) We must also record our appreciation for the services rendered by the learned Amicus Curiae.

(ix) Place the Petition under the caption of “Directions” on 20th December, 2017. It will be open for the State to file a separate undertaking as regards Panvel where the State is seeking time till 15th January, 2018.

(A.K. MENON, J)

(A.S. OKA, J)