

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 5594 of 2017 (O&M)

Date of decision : 29.3.2017

Arrive Safe Society of Chandigarh .. Petitioner
versus
Union Territory of Chandigarh and another .. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. Ravi Kamal Gupta, Advocate, for the petitioner.

Mr. Suvir Sehgal, Senior Standing Counsel with
Mr. Jai Vir S. Chandel, Advocate, for the respondents.

Rajesh Bindal, J.

1. The present petition has been filed by one NGO, which is working to create awareness about road safety and educating youth about liquor abuse. Challenge has been made to the notification dated 16.3.2017 (Annexure P-2) issued by the Chandigarh Administration, vide which while modifying the earlier notification dated 21.10.2005, the nomenclature of certain roads, was changed.

2. Learned counsel for the petitioner, while referring to the judgment of Hon'ble the Supreme Court in Civil Appeal Nos. 12164-12166 of 2016 The State of Tamilnadu Rep. by its Secretary Home, Prohibition & Excise Dept. & Ors. Vs K. Balu and Anr., decided on 15.12.2016, submitted that the issue under consideration in the aforesaid judgment was regarding location of liquor vends on the National and State Highways across the country. Hon'ble the Supreme Court examined the issue in detail and found that number of accidents were being caused because of easy availability of liquor just on the highways. While exercising the powers under Article 142 of the Constitution of India, certain directions were issued, restraining the

States and Union Territories from granting any license for sale of liquor along National and State Highways. Restraint also included even on the portions of National and State Highways falling within the limits of cities. These are to be located at a distance of 500 metres of the outer edge of the National or State Highway or of a service lane along with highway. It was submitted that vide notification dated 21.10.2005, all major Arterial Roads i.e. V-1, V-2, V-3 roads (except National Highway No.21), were declared as 'State Highways'. It was mentioned in the aforesaid notification that these roads carry medium to heavy traffic and are linked with other States, rural as well as urban areas. Vide impugned notification, to circumvent the judgment of Hon'ble the Supreme Court in K. Balu's case (supra), the nomenclature of V-1, V-2 and V-3 roads has been changed from 'State Highways' to 'Major District Roads', except Madhya Marg from Panchkula border (State of Haryana) to Mullanpur border (State of Punjab).

3. Learned counsel for the petitioner further referred to Entry 23 in List I of 7th Schedule in the Constitution of India (Union List) to show what a National Highway means. For State Highway, Entry 13 of List II of 7th Schedule (State List) was referred to.

4. Learned counsel for the petitioner further submitted that binding effect of a judgment of Hon'ble the Supreme Court cannot be taken away by the State/UT unless the basis thereof is removed with competence.

5. On the other hand, Mr. Suvir Sehgal, learned counsel appearing for the Union Territory, Chandigarh, submitted that Chandigarh is a very small city, the area being far less than even a smallest district in a State. It's total area is merely 114 square kilometers. There is no law under which any road is declared as State Highway in Union Territory, Chandigarh. He

further submitted that even in the States of Punjab and Haryana of which Chandigarh is Capital, there is no specific law under which a road is declared as – State Highway. He further submitted that in the States of Maharashtra, Karnataka, Tamil Nadu and Rajasthan, there are specific laws dealing with that issue.

6. He further submitted that notification in the year 2005 was issued just with a view to share the responsibilities of maintenance of different roads in the City. The Municipal Corporation having come into existence, certain responsibilities had to be shared with it. After the judgment of Hon'ble the Supreme Court in K. Balu's case (supra), the matter was re-examined and noticing that there is one National Highway crossing through Chandigarh and there is another road which connects two States, namely, Punjab and Haryana. These two were left out and all other roads were declared as major district roads, as Chandigarh is a small place. He further referred to PWD (B&R) manual where different categories of roads have been classified such as National Highway, State Highway, major district roads and village roads. State Highways are the major roads in the State having inter district connections.

7. The classification of roads in Chandigarh was explained. V-1 are the roads connecting Chandigarh with other cities in the region. V-2 are the Arterial roads. V-3 are the sector dividing roads. V-4 are the shopping streets cutting through sectors with shops. V-5 are the Circulation roads within sectors. V-6 are providing access to houses. V-7 are the foot paths through Green belts enabling pedestrians to cross sectors without having to cross vehicular traffic and cycle tracks. V-8 are cycle tracks through green spaces.

8. National Highway No. 21 passes through the City. The portion of this road falling in the City has been protected as such as it inter connects State of Punjab to Haryana and then to Himachal Pradesh. All other roads in the City are merely circulation areas between different residential and commercial sectors. These roads were rightly classified as 'major district roads'. As the main idea in issuing the notification in the year 2005 was only to define the roads for the purpose of its maintenance, no law as such has been violated. To examine the issue, the administration had constituted a Committee and on its opinion, which was approved by the Administrator of Chandigarh Administration, the impugned notification was issued. He further submitted that there are traffic restrictions in the City regarding movement of heavy traffic on certain roads during day time.

9. Heard learned counsel for the parties and perused the paper book.

10. The issue regarding presence of liquor vends on National and State Highways across the country with reference to increase in road accidents was considered by Hon'ble the Supreme Court in K. Balu's case (supra). The directions given by Hon'ble the Supreme Court while invoking its jurisdiction under Article 142 of the Constitution of India are extracted below:-

- “(i) All states and union territories shall forthwith cease and desist from granting licences for the sale of liquor along national and state highways;
- (ii) The prohibition contained in (i) above shall extend to and include stretches of such highways which fall within the limits of a municipal corporation, city, town and local authority;
- (iii) The existing licences which have already been renewed

prior to the date of this order shall continue until the term of the licence expires but no (sic not) later than 1 April 2017;

- (iv) All signages and advertisements of the availability of liquor shall be prohibited and existing ones removed forthwith both on national and state highways;
- (v) No shop for the sale of liquor shall be (i) visible from a national or state highway; (ii) directly accessible from a national or state highway and (iii) situated within a distance of 500 metres of the outer edge of the national or state highway or of a service lane along the highway.
- (vi) All States and Union territories are mandated to strictly enforce the above directions. The Chief Secretaries and Director General of Police shall within one month chalk out a plan for enforcement in consultation with the state revenue and home departments. Responsibility shall be assigned *inter alia* to District Collectors and Superintendents of Police and other competent authorities. Compliance shall be strictly monitored by calling for fortnightly reports on action taken.
- (vii) These directions issue under Article 142 of the Constitution.”

RELEVANT ENTRIES IN THE CONSTITUTION

Entry 23 of List I (Union List)

11. Entry 23 of List I of 7th Schedule of Constitution of India deals with National Highway. The same is reproduced hereunder:-

“23. Highways declared by or under law made by Parliament to be national highways”.

Entry 13 of List II (State List)

12. Entry 13 of List II of 7th Schedule of Constitution of India deals with roads and bridges. The same is reproduced hereunder:-

“13. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I;

municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles.”

13. The aforesaid are the enabling provisions in the Constitution of India.

RELEVANT STATUTES

14. In exercise of powers conferred under the Union List, the Parliament enacted the National Highways Act, 1956 (for short, 'the Act'). It came into force on 15.4.1957. Section 2(1) thereof enables the Central Government to declare any road as a National Highway. Section 2(2) of the Act provides that the Central Government may, by notification in the Official Gazette, declare any other highway to be National Highway and on the publication of such notification, the said highway shall be deemed to be specified in the Schedule.

15. In exercise of powers conferred under the State List, the States of Maharashtra, Karnataka, Tamil Nadu and Rajasthan, have enacted laws to declare State Highways. However, there is no such enactment framed by the States of Punjab or Haryana, of which Chandigarh is the Capital though a Union Territory.

ABOUT THE CITY- CHANDIGARH

16. After independence, Punjab was divided into West and East Punjab in 1947. After partition, East Punjab did not have a capital as Lahore was given to Pakistan. Therefore, Chandigarh was planned in order to develop a capital for Punjab. The foundation stone of the City was laid in the year 1952. At the time of re-organisation of State of Punjab, vide the Punjab Reorganisation Act, 1966, on 1.11.1966, when State of Haryana was carved out, the city was kept as capital of both, Punjab and Haryana.

Chandigarh was declared as a Union Territory. Prior to this, it was forming part of District Ambala. The literacy rate in Chandigarh is 86%, as per 2011 census. The total area of Chandigarh is 114 square kilometers. The City is divided into 56 Sectors. Each Sector or the neighboured unit, is quite similar to the traditional Indian 'mohalla', Typically, each sector measures around 800 metres by 1,200 metres. Out of the total land, about 65% of area is used as residential and commercial; 10% is being used for agriculture; 11% of the area is used for industrial/ institutions; 10% of the land is used as forest area; and 4% of the land is being used for other miscellaneous purposes. It is said to be one of the best planned City in the country. The urban area is divided into 56 sectors with specific places assigned for residential and commercial use. The industrial area is having a different location. The City is connected on two sides with States of Punjab and Haryana. National Highway No. 21 passes through the City. The roads in the City have been divided into different categories giving nomenclature as V-1 to V-8. The nomenclature of these roads as explained in the written statement, is extracted below:-

<i>TYPE</i>	<i>FUNCTION</i>
V-1	Roads connecting Chandigarh with other cities in the region. The Madhya Marg, Dakshin Marg merge with the V1's leading to Kalka and Ambala respectively.
V-2	The major avenues of Chandigarh, with important institutional and commercial buildings located on them. Madhya Marg, Dakshin Marg, Jan marg, Himalaya Marg, Uttar Marg and Purv Marg are important examples of these.
V-3	Roads between sectors for fast moving vehicular traffic. Each sector is surrounded either by a V2 or V3.
V-4	Shopping streets cutting through sectors with shops on either southern side.
V-5	Circulation roads within sectors.
V-6	Roads providing access to houses.
V-7	Foot paths through Green belts enabling pedestrians to cross sectors without having to cross vehicular traffic and cycle tracks.
V-8	Cycle tracks through green spaces.

17. At every intersection of the sectors where the roads are connected, the traffic is controlled through rotary, except at some places where the rotaries have been replaced with traffic lights considering increase in local movement of traffic in the city. Each rotary/ crossing / intersection has been given a specific number.

18. Learned counsel for the Union Territory had explained that there are traffic restrictions on different roads in the City for heavy vehicles. On certain roads in the City, heavy traffic is totally prohibited. Heavy vehicles are allowed on National Highway No. 21, passing through the City. On inter-sector roads in the City, heavy traffic is prohibited from 6.00 AM to 11.00 PM. On some parts of the roads on outer skirts of the City, commercial vehicles are permitted throughout the day.

19. Earlier notification dated 21.10.2005 specifying certain roads such as V-1, V-2, V-3 roads as State Highways, except National Highway No. 21, is extracted below:-

“No. G-II/05/03.-- All major Arterial Roads i.e. V-1, V-2 and V-3 roads (except National Highway No.21 passing the city via Junctions 39, 38, 37, 36, 35, 34, 49, 59, 58, 57, 56, 55 and 54) which constitute the main system of road transportation and provide linkage with National Highway No. 21, important towns of other States and tourist centers and which carry medium to heavy traffic and are major carrier of road traffic within Union Territory of Chandigarh and Interstate traffic and act as linkages between the rural areas and urban areas are hereby declared as the 'State Highways' with immediate effect. The development and maintenance of all the above noted State Highways shall be responsibility of the Chandigarh Administration.”

20. Learned counsel for the petitioner has not been able to refer to any statute in exercise of powers conferred under which certain roads were notified by the Administration as State Highways. Reason to do so has been explained in the written statement filed by the respondents. It was for internal arrangements whereby by defining the roads, the responsibilities for maintenance were fixed. By classifying some of the roads as State Highways, the responsibility of maintenance and development of these roads was shifted to Chandigarh Administration as the funds were being received for the purpose from 'Central Road Fund', which was created by levy of additional duty on petrol and was a non-lapsing fund. At that time keeping in view the larger public interest and availability of more funds for maintenance of roads, certain internal roads, in addition to National Highway No.21, passing through the city, were declared as State Highways. In fact, these are inter-sectorial roads.

21. Learned counsel for the petitioner has not cited any law which has been violated while issuing the impugned notification dated 16.3.2017, redefining the nomenclature of various roads in the City. It is only earlier notification versus the second notification. No standard guidelines have been referred to in support of the plea.

22. As regards drunken driving, it has specifically been claimed in para 2 of the reply, that drunken driving is regularly checked in the City with setting up of regular check post/ *nakas*, especially at late evening times. The teams are equipped with breath analyzers. Special check posts are formed on all major roads. CCTV cameras have been installed at busy junctions. Surprise checking with alcometer is conducted during nights on regular intervals. As a result of strict enforcement of traffic rules and

checking of drunken driving, the Administration has been able to prevent several motor vehicular accidents in the City.

23. After a committee was constituted, the roads have been renamed. National Highway No.21 is passing through the City. Hence, there is no change about its nomenclature. There is another road known as 'Madhya Marg', which passes through the City and is connecting Panchkula in the State of Haryana and Mullanpur in the State of Punjab. This road has also been left as such as a 'State Highway' and has not been redefined as Major District Road, as it interconnects two States and passing through the City. Though as such, it has not been pointed out that roads on both the ends of this road have been named as State Highway in the respective States.

24. For the reasons mentioned above, we do not find any merit in the present petition. The same is accordingly dismissed.

(Rajesh Bindal)
Judge

29.3.2017
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No