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HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment Reserved on 17.02.2020

Judgment Delivered on 20.03.2020

Writ Petition (PIL) No. 94 of 2018

- D.D. Ahuja, S/o Late Shri Tekan Das, aged about 60 years, R/o Main Road, Sarkanda, Police Station Sarkanda, Tehsil and District Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary Public Works Department, Mantralaya, Mahanadi Bhawan, New Raipu, District Raipur (C.G.)
2. Union of India, through Secretary, Ministry of Road Transport and Highways, Transport Bhawan No.1, Parliamentary Street, New Delhi.
3. Director General of Police, Police Headquarter, New Raipur, District Raipur (C.G.)
4. Director, Urban Administration, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.)
5. Regional Director, National Highway Campus, Pension Bada, Raipur (C.G.)

---- Respondents

For Petitioner : Shri Sunil Otwani, Advocate.
For Respondent/State : Shri Gagan Tiwari, Deputy Government Advocate.
For Respondent/UOI : Shri V. Govardhan, Advocate on behalf of Shri B. Gopa Kumar, Assistant Solicitor General.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu, Judge

CAV Order

Per P. R. Ramachandra Menon, Chief Justice

1. This petition, filed as public interest litigation, highlights the casualties caused because of “unauthorized speed breakers” constructed on the roads of

Chhattisgarh ignoring the guidelines which are being issued by the State Government as well as the Government of India.

2. According to the Petitioner, roads are being constructed in the State of Chhattisgarh by different authorities including the National Highway Authority of India, Public Works Department, Municipal Corporation, Municipal Councils as well as the Gram Panchayats. The case of the Petitioner is that directions have to be issued to ensure that no speed breakers are constructed in any of the roads maintained by the Respondent authorities which do not confirm to the specification given by the Indian Road Congress (for short, 'IRC') and if at all any, they shall be caused to be removed within a stipulated time. The Petitioner points out that guidelines on the construction of 'speed breakers' for controlling the speed of vehicles have been drawn and finalized by the IRC, based on the necessary inputs collected from different corners and assessed by the Traffic Engineering Committee of the IRC. The draft finalized by the Executive Committee was placed in the Council and thereafter, it was approved with some minor changes as borne by the Annexure P/1 guidelines issued by the IRC.

3. According to the Petitioner, the speed breakers, where permitted to be installed, provide visual, audible and tactile stimuli which alert the drivers and cause them to slow down. These can have different heights, lengths, spacings, signs etc. however, an ideally designed hump, as pointed out by the Petitioner, should satisfy the following requirements:

> "(i) there should be no damage to vehicles nor excessive discomfort to the drivers and passengers when passing at the preferred crossing speed,
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> (ii) the hump should not give rise to excessive noise or cause harmful vibrations to the adjoining buildings or affect the other residents of the area, and
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> (iii) above the design speed, a driver should suffer increasing level of discomfort (but without losing directional control and without any vehicle damage) depending on the extent through which design speed is exceeded."

4. The Petitioner points out in the writ petition the use of the speed breakers as justified, primarily under the following three categories:

> "(i) T-intersections of minor roads with rural trunk highways, characterised by relatively low traffic volumes on the minor road but very high average operating speed and poor sight distances. Such locations have a high record of fatal accidents and as such a speed breaker on the minor road is recommended;
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> (ii) Intersections of minor roads with major roads, and mid-block sections in urban areas where it is desirable to bring down the speeds; and
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> (iii) Selected local streets in residential areas, school, college or university campuses, hospitals, etc. Also in areas where traffic is observed to travel faster than the regulated or safe speed in the area."

5. The other places where the speed breakers may be used are pointed out as:

> "(i) Any situation where there is a consistent record of accidents primarily attributed to the speed of vehicles e.g. When hazardous sections follow a long tangent approach;
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> (ii) approaches to temporary diversions;
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> (iii) approaches to weak or narrow bridges and culverts requiring speed restriction for safety;
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> (iv) on the minor arms of uncontrolled junctions and at railway level crossings;
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> (v) sharp curves with poor sight distances; and
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> (vi) places of ribbon development, where road passes through built-up areas and vehicles travelling at high speeds are a source of imminent danger to pedestrians."

6. The IRC has suggested as follows:

> "8.8 That, after considering the entire recommendations, the India Road Congress has suggested that speed breakers are formed basically by providing a rounded (of 17 metre radius) hump of 3.7 metre width and 0.10 metre height for the preferred Advisory crossing speed of 25 km/h for general traffic. It is mentioned that more humps be constructed at regular intervals depending on desired speed and acceleration/deceleration characteristics of vehicles and that the distance between one hump to another can vary from 100 to 120 metres centre to centre."

7. The Petitioner contends that, to the best of knowledge of Petitioner, no speed breakers can be constructed on the National Highways and the Ministry of Road Transport and Highways have required all the States and requisite agencies to remove speed breakers from the National Highways in view of a number of casualties/death taken place because of road accidents due to speed breakers. The Petitioner also places reliance on the annual publication of the Ministry of Road Transport and Highways from road accidents in India occurred in the year 2016; pointing out that there were 9583 accidents and 3396 'accident deaths' were attributed to the speed breakers. With reference to the statistics as far as the State of Chhattisgarh is concerned, it is contented by the Petitioner that no speed breakers can be constructed unless permission is granted by the Committee by name 'Zila Sadak Suraksha Samiti' to be constituted in each District, which is headed by the District Collector.

8. Referring to a news report published in one of the national dailies in India, it is stated that there are 2000 unauthorized speed breakers in the Raipur District itself, whereas the figure in the entire State would be more than 10,000. With specific reference to the constitutional right of every citizen (with reference to Article 19(1) (d), Article 21 and Article 38(2) of the Constitution of India), the Petitioner, who is a public spirited citizen and stated as associated with various socio-cultural organizations, has moved this Court with the following prayers:

> “10.1 That, the Hon'ble Court may kindly be pleased to issue writ/writs, direction/directions to the respondent authorities to ensure that there is no speed breakers in any of the roads maintained by the Respondent authorities which does not conform to the specifications given by the India Road Congress and in case there are speed breakers which are not in conformity with the directions of the India Road Congress, each of the Respondent agencies remove the same.
>
> 10.2 That, the Hon'ble Court may kindly be pleased to issue writ/writs, direction/directions directing the State Government to place online the list of all authorized/unauthorized speed breakers. The

> Government shall also place on its website through an appropriate link, the specification of the speed breakers by the concerned India Road Congress and other special agencies, who set the standards with respect to such matters i.e. speed breakers.
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> 10.3 That, the petitioner further prays for issuance of suitable direction to the State Government to constitute a multi member committee for monitoring of the issue concerning the unauthorized speed breakers in the State of Chhattisgarh. The Committee shall be chaired by an officer not below the rank of Chief Secretary/Principal Secretary of the Government. The Special Body/Committee shall meet at frequent intervals and collect data and also ensure that the unauthorized speed breakers in terms of the locations as well as the dimensions are appropriately removed within the time frame.
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> 10.4 That, this Hon'ble Court may kindly be pleased to grant any other relief(s)/order(s)/direction(s) in favour of petitioner, which may deem fit and proper in the facts and circumstances of the case, in the interest of justice."

9. When the matter came up for consideration before this Court on 10.12.2018, considering the gravity of the issue projected by the Petitioner, the following order was passed:

> "This PIL has been initiated under the background that in the State of Chhattisgarh, be it National Highways, State Highways and even the roads maintained by the Municipal Authorities, are littered with unauthorized speed breakers. These speed breakers have not been put-up by any authorized authority but by local residents, at times, without any approval and without following the standards and specifications which have been laid down by the Indian Road Congress in their construction.
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> Writ application has brought on record various details which have been culled out from the replies on the floor of House in the Parliament where number of deaths caused due to illegal speed breakers in various years have been provided officially for every State including State of Chhattisgarh.
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> Since the speed breakers are not only illegal but also taking life of innocent citizens as well as causing physical injuries to unsuspecting riders, the time has come when the Court cannot remain a silent and mute spectator. It has to enforce the law and compel the authorities to act by taking steps for removal of all such illegal speed breakers on the roads of Chhattisgarh across the State.

> Since the factum of existence of speed breakers are not a matter of argument or dispute, therefore, the Court directs all the authorities, who have been made respondents here, to work as a 'Nodal Agency' and with the inputs & support of the District Magistrate and the Superintendent of Police of all the districts of Chhattisgarh, the concerned authorities will take steps for removal of illegal speed breakers within a period of four weeks from today and file their return as to the implementation of the order of this Court. Further directions and actions, if needed, due to non-compliance will be considered by the Court when suitable affidavits are filed by the respondents or if inputs are provided by the counsel for the petitioner, showing inaction on the part of the respondents in compliance.
>
> Let the matter be listed on 08.01.2019 when the steps so taken and details of the speed breakers so removed will be filed by way of affidavits by the authorities of the National Highway, State Highway, Municipal Authorities and such other authorities who maintain roads across the State of Chhattisgarh."

10. Pursuant to the above order, directing the authorities to take necessary steps for removal of the illegal speed breakers within four weeks and to file return as to the implementation by way of affidavit, necessary proceedings have been filed by the Respondent concerned, which was taken note of on 08.01.2019 and an order was passed in the following terms:

> "The counter affidavit on behalf of the State has been filed duly sworn by the Superintending Engineer, Public Works Department, Bilaspur. Statement has been made with details of removal of the illegal speed-breakers in the said affidavit with supporting evidence as photographs.
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> The Court after perusing the same can only observe that such removal of illegal speed-breakers is only a work in progress and cannot be treated to have reached finality in matter of implementation. There are still reports available within the public domain that many illegal speed-breakers are still required to be removed, specially in the municipal areas now, where the focus should shift and the direction earlier issued by this Court on 10.12.2018 applies as much to the Municipal authorities, or Panchayats, or any other government at the third level.
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> The Court also notices that though the speed-breakers have been removed in many a places, the

> necessary repair has also not been carried out which has its own perils.
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> In view of the same, let the matter be listed again after six weeks when the work so done will be carried on further by all the agencies under the State. Report in this regard will be provided by way of further affidavit.
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> Counsel for the petitioner is also free to obtain his all inputs from his own sources with regard to the correctness and otherwise of the data so provided in today's affidavit on behalf of the State.
>
> List after six weeks."

11. Observing that the direction given on 08.01.2019 has not been complied with, this Court reiterated on 26.02.2019, that the direction for removal of all the illegal speed breakers, be it on the National Highway, State Highway, PWD roads, Municipal roads or Panchayat roads, had to be complied with in many areas of the State of Chhattisgarh. Four weeks' additional time was granted to file a report, whether the direction had been implemented across the State or not.

12. Subsequently, when the matter came up for consideration on 26.03.2019, referring to the affidavits already filed, it was noted that the affidavit was silent about the removal of speed breakers over Municipal roads or Panchayat roads and hence the State (through the 4th Respondent) was required to file affidavit as to whether the speed breakers over Municipal roads have been removed or not. Laxity on the part of the Respondents was deprecated and further time was granted as per order dated 24.06.2019, which reads as follows:

> "Despite the order passed by this Court way back on 26.03.2019, affidavit to the requisite is still to come from the part of the State with regard to the removal of the illegal speed breakers from the Municipal areas. The learned Additional Advocate General submits that almost 90% of illegal speed breakers have been removed from the State Highways and National Highways. It is stated that instructions are still to come from the other parts, despite the specific instructions and directions already been issued to the Municipal Commissioners. Whether there is a conscious act on

> the part of the Municipal Commissioners in giving effect to the orders issued by this Court is a matter to be looked into. If at all there is violation of the directions/instructions, given by the Authorities of the State (it may warrant disciplinary proceedings) as well. It cannot but be mentioned that the order passed by this Court, so long as it stands, has to be honoured in the right spirit and perspective, causing removal of all the unauthorised speed breakers. Breathing time is sought for to put forth the correct factual position before further steps are taken against the errant persons.
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> List it for further consideration on Friday i.e. 28.06.2019."

13. On 28.06.2019, taking stock of the materials on record, this Court required the Petitioner as well to furnish the particulars of the roads from which the unauthorized speed breakers were still to be removed. The learned counsel for the Petitioner submitted on 21.08.2019 that the affidavit filed on behalf of the Respondents/State with regard to the removal of the speed breakers did not cover all the unauthorized speed breakers put on the road, but for confining to 'one district'. It was also stated that the learned counsel for the Petitioner had made a personal visit to various places in the Corporation of Bilaspur, Bhilai, Rajnandgaon and Kanker, when it was noted that several unauthorized speed breakers were still remaining there. This was sought to be rebutted by the learned counsel representing the State pointing out that an additional affidavit dated 12.07.2019, sworn by Shri R.K. Ratre working as Superintending Engineer in Public Works Department, Bilaspur has been filed on 08.08.2019 in compliance of the order dated 26.03.2019; pointing out that almost all the unauthorized speed breakers have already been removed and that steps were being pursued to remove the remaining ones as well.

14. The version of the State was put to challenge by the learned counsel for the Petitioner, when the matter came up for further consideration on 28.08.2019, pointing out that unauthorized speed breakers still exist within the various Municipal limits and that affidavit filed on the part of the State only stated

removal of the speed breakers in the Municipal Corporations, which did not reflect the position in the Municipal Councils. Time was granted to the State to get particulars in this regard and to make appropriate submissions.

15. While recording the submissions made on behalf of the State that the report will be filed before this Court with regard to the remaining aspects to be considered and dealt by this Court on 24.10.2019, the submission on behalf of the Petitioner was also recorded to the effect that there had to be a Committee in each District consisting of District Magistrate, Superintendent of Police, Executive Engineer (PWD) and such others who was to look into the various aspects and the appropriate direction might be given to the said Committee to deal with the complaints or representation preferred by any person with regard to the removal of unauthorized speed breakers and to be dealt with accordingly in conformity with the recommendation made by the IRC stated as approved by the Apex Court.

16. On 21.11.2019 this Court directed the State to verify whether a proper Committee so as to deal with the issue has been constituted in all the Districts in the State so that the remaining issue could be relegated to be brought to the notice of the Committee for remedial steps, as and when necessitated.

17. However, when the matter came up for further consideration on 07.01.2020, the learned counsel for the Petitioner pointed out that some unauthorized speed breakers were still to be removed and the reason stated for delay was that 'Model Code of Conduct' had already come into operation, in connection with the election notified to the local authorities. But, since the election was already over the learned counsel for the State sought for time to file full compliance report including as to whether District Committee existed in every district as taken note of in the earlier proceedings.

18. It was submitted by the learned counsel representing the State on 10.02.2020 that 10 unauthorized speed breakers were remaining and that all others had already been removed; adding that the factual position was being put in the form of an affidavit. It was also pointed out that, in respect of the above unauthorized speed breakers, there was some dispute with regard to the responsibilities of the authorities concerned, to have it removed (between the PWD and the Municipal Corporation/Municipal Councils). It was also brought to the notice of this Court, that the issue was reportedly resolved and if the remaining unauthorized speed breakers were not removed by the Municipal Corporation/Councils, the PWD would remove them immediately. It was also asserted that Committees have been constituted in all the Districts in the State of Chhattisgarh to deal with the matter. This was followed by the submission made on 17.02.2020 by the learned counsel appearing for the State that all the remaining unauthorized speed breakers were removed and the position had been put into writing by filing an affidavit before this Court.

19. In compliance with the order dated passed by this Court on 28.08.2019, the Superintending Engineer, by name Shri R.K. Ratre, has filed an affidavit on 06.01.2020 referring to the various factual aspects as to the existence and removal of the 'unauthorized speed breakers' in various places and stating that the order passed by this Court has already been complied with, in letter and spirit. Pursuant to the order dated 07.01.2020, the very same officer has filed an affidavit dated 08.02.2020 reporting full compliance. We find it appropriate to extract paragraphs 5 to 9 of the said affidavit to have clarity in all respects and to avoid verbal repetition:

> “5. That, in the affidavit submitted on behalf of the State/deponent on 06.01.2020, it was admitted that there were certain speed breakers which were yet to be removed and the reason for non removal of the same was due to elections. The details of unauthorized speed breakers are that 42 unauthorized/illegal speed breakers were from the

Municipal Council, Raipur Division, 6 illegal speed breakers were from the Municipal Council, Bilaspur Division and 17 illegal/unauthorized speed breakers were from the Municipal Council, Durg Division.

6. That, within Durg Division, 20 unauthorized speed breakers were to be removed from Municipal Council, Dongargarh, 10 unauthorized speed breakers were to be removed from Nagar Panchayat Ambagarh Chowki and 2 unauthorized speed breakers were to be removed from Nagar Panchayat Bodla and the aforesaid unauthorized speed breakers have been removed. To demonstrate the above, copies of the status report given by the Municipal Council, Dongargarh, Nagar Panchayat Ambagarh Chowk and Nagar Panchayat Bodla are collectively filed herewith as **Annexure-F**.

7. That, within Bilaspur Division, there were 6 unauthorized/illegal speed breakers and 3 speed breakers were to be removed from Nagar Panchayat Bodari and 3 speed breakers were to be removed from Municipal Council, Akaltara which have also been removed. To demonstrate the above, copies of the status report given by Nagar Panchayat Bodari and Municipal Council Akaltara are collectively being filed herewith as **Annexure-G**.

8. That, so far as the remaining unauthorized speed breakers in Raipur Division is concerned, 38 unauthorized speed breakers were to be removed from Nagar Panchayat Kurud, out of which 28 unauthorized speed breakers have already been removed by the Nagar Panchayat Kurud and for remaining 10 speed breakers, which belongs to Department of Public Works, necessary correspondence has already been made and at present, the said 10 unauthorized speed breakers have also been removed. That, 4 unauthorized speed breakers were to be removed from Nagar Panchayat Pithoura which has also been removed. To demonstrate the above, copies of the status report given by Nagar Panchayat Kurud and Nagar Panchayat Pithoura are collectively being filed herewith as **Annexure-H**.

9. That, the deponent respectfully submits that the deponent has sought information from the PWD with regard to the constitution of District Level Committee for redressal of grievance with regard to the road safety measurement in the State. In reply to which, the Department has informed to the deponent vide its letter dated 24.01.2020 that, in every district, the District Redressal Committee is in existence which is being headed by the District Collector and time to time, the meeting is being convened in each district. The deponent further submits that in compliance of

> the Supreme Court Committee on Road Safety letter dated 21.05.2019, the Department of Transport, vide its order dated 02.08.2018 has constituted a committee to regulate the directions which have been issued by the Supreme Court Committee on Road Safety. Copies of the letter dated 24.01.2020, order dated 02.08.2018, letter dated 21.05.2019 and the details of the meeting convened in each districts of District Road Safety Committee are collectively filed herewith as **Annexure-I**."

20. In the above facts and circumstances, the writ petition stands disposed off, directing the Respondents concerned, to ensure that no unauthorized speed breakers are constructed or setup and if at all any such instance is noted, it shall be removed forthwith and appropriate action shall be taken against the persons/bodies responsible. Construction of the speed breakers shall only be effected at appropriate places, strictly in conformity with the guidelines issued by the IRC and after getting permission of the District Committees (Zila Sadak Suraksha Samiti) concerned. If construction or existence of any 'unauthorized speed breaker' is noticed by anybody, it will be open for such person to bring it to the notice of the District Committee as aforesaid, who shall verify the position and take further steps to cause it to be removed immediately. It shall be for the Respondents to monitor the facts and figures, so that no grievance comes up from any corner in this regard.

Sd/-
(P. R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Brijmohan