

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of decision: 05.12.2023

(1)

CWP-11091-2022

PARVINDER SINGH KITNA

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

(2)

CWP-20332-2020

HARPAL SINGH AND OTHERS

.....Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Dr. Payal Mehta, Advocate for
Mr. H.C. Arora, Advocate
for the petitioner in CWP-11091-2022.

Mr. Abhinav Singla, Advocate
for the petitioners in CWP-20332-2020.

Mr. Athar Ahmed, DAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The present writ petitions have been filed for seeking
issuance of directions to the respondents, not to allow plying of the
modified jugaad two wheelers and over loaded trolley for the purpose
of transportation of goods etc. by attaching the rehri with the said two

wheelers.

Counsel for the petitioners points out that similar issue has already been highlighted and dealt with by this Court in the matter of ***“Shri Sai Tata Ace Four Wheelers Driver Union Samana, District Patiala through its President versus State of Punjab and others in CWP-14368-2021 (O&M)*** decided on 20.09.2023. Despite this Court pointing out requirement to adhere & enforce the law, the respondents are doing bare minimum. Such modified vehicles roam around overloaded & freely with no fear. Such unauthorized vehicles endanger human life & property. Various photographs have also been appended to illustrate the ground position as well.

A written statement has been filed by Additional Director General of Police, Traffic as per which traffic police under Commissionerates & Districts have issued 215 challans & impounded 9 vehicles after 23.11.2020. However, as people raised protests, now there is an awareness campaign being run. A total of 6604 traffic education camps have already been organized. A fresh letter has been issued on 13.06.2022 to all C.Ps as well as SSPs to take necessary action against violators.

A separate status report was also filed by the Deputy Superintendent of Police, Garhshankar to a similar effect without disputing that the modification is illegal and in violation of Motor Vehicle, Act.

Similarly, a short reply was filed by Sub Divisional Magistrate, Patran in CWP-20332-2020 as per which a total of 05 challans had been issued.

A separate short reply was also filed by Secretary, Regional Transport Authority, Patiala averring that the authorities are issuing challan. A list of such challan from February, 2020 to October, 2023 has been attested as per which a total of 68 challans have been issued from February, 2020 to October, 2023. The list attached, however, is a combined list of challans alongwith Motor Cycles. Over a period of nearly 04 years, from February, 2020 to October, 2023, 68 challans would make out an average of 17 challans a year.

Apparently, the exercise undertaken by the respondents is merely an eye-wash instead of ensuring a meticulous compliance of the Rule of Law and ensuring that the mandate of the Motors Vehicle Act and the Rules framed thereunder is effectively implemented.

The photographs appended with the petition establish that the provisions of the Motor Vehicle Act, 1988 and the Rules are being violated & steps taken by the respondents are inadequate. Lives and properties of people are being exposed to enhanced danger due to the above. The authorities on the other hand are merely looking the other way. Indeed people have to earn their livelihood but the same cannot be by specifying Rule of Law at the alter of certain hardship. Modified/overloaded vehicles have been one of major causes of road mishaps and often fatal accidents. A financial constraint to being an approved vehicle cannot be a justification for permitting violation of statute. The above lethargy in State action was also noticed in the cases referred to above and penalty imposed upon law enforcement agencies.

Accordingly, the present petition is disposed of in terms of order passed in the matter of ***“Shri Sai Tata Ace Four Wheelers***

Driver Union Samana, District Patiala through its President versus State of Punjab and others in CWP-14368-2021 (O&M) decided on 20.09.2023.

Hence, a cost of **Rs. 50,000/-** each is also imposed upon the Secretary, Regional Transport Authority, **Hoshiarpur** and Secretary, Regional Transport Authority, **Patiala** respectively to be deposited with the **“Poor Patients Welfare Fund’ of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh”** in similar terms.

Effective steps for enforcing provisions of Motor Vehicle Act, 1988 & Rules framed thereunder shall be duly taken by the respondents. A periodic monthly drive ought to be undertaken by the law enforcement agencies against unauthorized/unapproved vehicles plying on road or being oversized/overloaded. Such drives should be informative as well as punitive & appropriate challans/impounding be done as per law.

Disposed of accordingly.

A photocopy of this order be placed on the file of connected case.

(VINOD S. BHARDWAJ)
JUDGE

DECEMBER 05, 2023

Vishal sharma

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