

WP No.14287 of 2019
and WMP No.14371 of 2019

S.MANIKUMAR, J.,
AND
SUBRAMONIUM PRASAD, J.,

[Order of the Court was made by S.MANIKUMAR, J.,]

A practicing Advocate, who has two school going girl children has filed the instant Public Interest Litigation, for a mandamus, directing the respondents herein to direct all the school buses to provide CCTV Camera with GPS.

2. Supporting the prayer sought for, petitioner has contended that on 02.02.2019, there was a news item in Times of India, wherein it was reported that in Coimbatore, a school van driver and cleaner, were arrested for sexually assaulting a four year old girl inside the bus near Mettupalayam on 29.01.2019. Petitioner has also contended that he had seen another news item in Mirror Now Digital dated 27.10.2018, that in Greater Noida, a three year old girl student of a private school, has been sexually assaulted inside the bus and threatened with dire consequences.

3. Petitioner has further contended that installation of CCTV Camera with GPS would ensure monitoring of the movement of the school bus through an official website by the parents. According to him the above

would ensure the safety of school going children. In that context, he sent a representation dated 03.04.2019 to the Director of School Education, Chennai, 1st respondent herein. Said representation remains unanswered. Hence, the instant writ petition for a mandamus, as stated supra.

4. Record of proceedings shows that on 15.05.2019, a Hon'ble Division Bench of this Court has ordered notice to the respondents.

5. Based on an order passed by the Hon'ble Division Bench of this Court in WP No.31112 of 2017 dated 04.12.2017, Mr.K.Karthikeyan, learned Government Advocate submitted that when, M.Kalaichelvi, petitioner therein sought for a writ of mandamus, directing respondents therein to instal CCTV Camera in ll public, private schools and other educational institutions, within a stipulated period of time, a Hon'ble Division Bench of this Court dismissed the said representation as not maintainable. Order made in WP No.31112 of 2017 dated 04.12.2017, is reproduced.

This writ petition has been filed seeking orders directing the respondents to install Close Circuit Television (CC TV) cameras in all public, private schools and other educational institutions within a time frame stipulated by this Court. Orders have been sought in the light of reports of incidents of sexual harassment and other forms of harassment of school children.

2. Installation of CC TV cameras may be of some assistance. However, whether, installation of CC TV cameras alone can remove the menace of harassment of children is a matter of

examination.

3. A similar writ petition being W.P.No.5243 of 2015 filed in this Court earlier, seeking similar reliefs, was disposed of by an order dated 27.02.2015, whereby the Principal Secretary, Department of School Education, was directed to take a decision on the representation of the writ petitioner therein.

4. In the letter dated 24.7.2015 of the Principal Secretary to the Government, School Education Department, written pursuant to an order of a Division Bench in W.P.No.5243 of 2015 dated 27.2.2015, it is stated that installation of CC TV cameras in all classrooms and in the school premises would be prohibitively expensive.

5. It is for the authorities of the Education Directorate/Department to take a call on the feasibility of installation of CC TV cameras in all schools and educational institutions taking into account all relevant factors, including the extent of the need for installation of CC TV cameras, whether installation of CC TV cameras can eliminate abuse and harassment altogether, as also the expenditure in the installation of such CC TV cameras. The expenditure on installation of CC TV cameras in every educational institution would have to be estimated and a decision taken as to whether incurring of such expenditure on installation of CC TV cameras, in preference to improvement of infrastructure, and acquisition of better equipment, library books, etc., is for improvement of standard of education at the institutions. Since a decision has already been taken, any further direction on the respondents to take a decision would be an exercise in futility.

6. As rightly pointed out in the letter of the Principal Secretary, School Education Department, referred to above, the cost of CC TV cameras in private institutions would ultimately be passed on to the students, who would have to pay higher fees. It

is, therefore, doubtful whether such mandatory orders for installation of CC TV cameras in all educational institutions all over the State can be passed at the instance of one publicspirited citizen, without consulting the body of guardians, who would have to pay the higher fees for such facilities.

7. The writ petition is not entertained and the same is dismissed. However, dismissal will not prevent the authorities from taking any decision for the installation of CC TV cameras, if deemed expedient. No costs."

6. Said order deals with a request to install Closed Circuit Television Cameras in all public, private schools and other educational institutions. It does not deal with installation of CCTV with GPS in the education institutions' buses.

7. Mr.E.Manoharan, learned Additional Government Pleader submitted that Government have issued G.O.Ms.No.727, Home (Tr.VII) Department, dated 30.09.2012 for regulation and control of school buses. Rules issued by the Government in Tamil Nadu Motor Vehicles (Regulation and Control of School Buses) Special Rules, 2012 in G.O.(Ms.) No.727, Home (Tr.VII) Department dated 30.09.2012, reads thus.

**NOTIFICATIONS BY GOVERNMENT
HOME DEPARTMENT
TAMIL NADU MOTOR VEHICLES
(REGULATION AND CONTROL OF SCHOOL BUSES)
SPECIAL RULES 2012
[G.O. (Ms) No. 727, Home (Tr.VII) Department,
30th September 2012.]**

No. SRO A 24(a)/2012.

In exercise of the powers conferred by clause (xxxiii) of sub-section (2) of Section 96, Section 111, and clause (i) of sub-section (2) of Section 138 of the Motor Vehicles Act, 1988

(Central Act 59 of 1988), the Governor of Tamil Nadu, hereby makes the following Rules, the draft of the same having been previously published as required by sub-section (1) of Section 212 of the said Act:-

RULES.

1.Short title and commencement.- (1) These rules may be called the Tamil Nadu Motor Vehicles (Regulation and Control of School Buses) Special Rules, 2012.

(2) The provisions of these Rules shall come into force with effect on and from the 1st October 2012.

(3) These Rules shall apply to School Buses as defined in clause (8) of rule 2.

(4) These Rules shall be in addition to and not derogatory of the relevant provisions contained in the Motor Vehicles Act, 1988, (Central Act 59 of 1988), the Central Motor Vehicles Rules, 1989 and the Tamil Nadu Motor Vehicles Rules, 1989.

2.Definition.- In these Rules, unless the context otherwise requires-

(1) "Act" means the Motor Vehicles Act, 1988 (Central Act 59 of 1988);

(2) "Appropriate Authority" means the Authority which is authorized under the Act to grant a permit;

(3) "Attendant" means any person appointed by a School to perform duties specified in rule 5;

(4) "District Level Inter-Departmental Committee" means a committee constituted under rule 11 to monitor the implementation of provisions of these Rules at District Level;

(5) "Educational Authority" means the Authority empowered by the State Government or the Central Government to control and regulate the functioning of a School;

(6) "Parent Teacher Association" means an Association formed under rule 9 to ensure the safety of those students who are transported by school buses;

(7) "School Authority" means the Correspondent or Secretary of the School Management Committee and the Head Master or the Principal of a School;

(8) "School Bus" means an omni bus which stands registered in the name of a school recognized by the State Government or the Central Government or in the name of any other person with whom the management of the school has entered into an agreement of lease and has obtained a permit in the name of the school for the purpose of transporting students and staff of the school only in connection with school activities;

(9) "School Level Transport Committee" means the committee constituted under rule 10 to monitor the implementation of provisions of these Rules at School Level;

(10) "Special Cell" means the Cell constituted under rule 8 for

testing and inspecting School Buses for the purpose of issue and renewal of the fitness certificate; and

(11) Words and expressions used but not defined herein shall have their respective meanings, as assigned to them in the Act and the rules made thereunder.

3. School Bus Permit.-

(1) No School Bus shall be used in any public place, whether or not such vehicle is actually carrying any student, without obtaining necessary permit from the appropriate authority under Section 76 of the Act.

(2) (i) An application for the grant of School Bus permit shall be made in the relevant Form as prescribed in rule 170 of the Tamil Nadu Motor Vehicles Rules, 1989 to the appropriate authority in whose jurisdiction the School is functioning, together with the order of approval from the Educational Authority and such other documents as required by the appropriate authority.

(ii) On receipt of an application, the appropriate authority shall make such verification as it may deem necessary and may also issue an order sanctioning permit in accordance with sub-rule (a) of rule 181 of the Tamil Nadu Motor Vehicles Rules, 1989. Upon receipt of the required documents, the appropriate authority shall issue the permit in the relevant Form as prescribed in rule 171 of the Tamil Nadu Motor Vehicles Rules, 1989. In the event of the School Authority failing to produce the required documents within the time specified, the appropriate authority shall revoke its sanction under sub-rule (b) of rule 181 of the Tamil Nadu Motor Vehicles Rules, 1989.

(iii) The permit shall be normally valid for a period of five years and the permit will cease to be effective unless the approval or recognition of the school is got renewed. The School Authority shall produce to the appropriate authority, necessary orders of renewal of recognition from the Educational Authority.

(iv) The school bus shall be registered in the name of the school and not in the name of the Trust or Society conducting the school.

4. Qualification and duties of driver of School Buses.-No person shall drive or no School Authority shall allow any person to drive any School Bus unless such person possess the following qualifications as well as satisfy the following conditions:-

(1) He must have a valid Driving Licence to drive such class of vehicle;

(2) He must have a minimum driving experience of atleast 5 years in similar category of vehicles;

- (3) He should not have been challaned more than twice in a year for offences like red light jumping, violation of lane discipline or allowing unauthorized person to drive, etcetera;
- (4) He should not have been challaned even once for the offences of over speeding, drunken driving and dangerous driving resulted in fatal accident;
- (5) He should undergo driving skill test before the School Level Transport Committee once in a year. He should also undergo eye test at that time;
- (6) The driver must maintain a log book. He must point out any defect noticed while driving the School Bus, on day to day basis and also he must ensure that the defects noticed in the log book are rectified and mention the same in the log book;
- (7) While on duty he should be in a uniform of Khaki Slack and Khaki Pant as specified in clause (iv) of rule 37 of the Tamil Nadu Motor Vehicles Rules, 1989. He should also display on his left chest pocket a white plastic plate of size 8cms x 2cms inscribed with his name in bold black letters of size 0.5cm both in English and in Tamil with badge number and the name of the district as specified in rule 21 of the Tamil Nadu Motor Vehicles Rules, 1989;
- (8) He shall not drive the School Bus in contravention of the speed limit prescribed;
- (9) He shall carry the authorisation issued by the School Authority in Form AVT prescribed under rule 12 of the Tamil Nadu Motor Vehicles Rules, 1989 and certified by the Regional Transport Officer;
- (10) Utmost care should be taken by the driver of the School Bus to follow the Rules of Road Regulations, 1989 as notified in the Government of India Notification No.SO 439(E), dated 12.6.1989.

5. Duties and responsibilities of the Attendant in School Buses.-

- (1) In every School bus, there shall be an attendant while transporting students. He should possess valid conductor licence granted under Chapter III of the Tamil Nadu Motor Vehicles Rules, 1989.
- (2) The attendant shall not be less than 21 years of age and not more than 50 years of age. He should be medically fit to get down first from the School Bus at each stopping point to facilitate the embarkation and disembarkation of school children.
- (3) The attendant should have been adequately trained to handle young children to attend to their needs and ensure their safety while travelling in the School Bus.
- (4) In case of the children, on the return journey from the school, the attendant shall properly hand over the children to the parent or to the authorised person at the bus stop where

the child gets down.

(5) As the School Bus stops, the attendant shall get down from the bus at first, stand outside the bus near the steps, help the students to embark and disembark safely and ensure that their parents or authorised person are present to take care of the children.

(6) In case, the School Bus is carrying exclusively girl students, there shall be a female attendant in the School Bus.

6. Construction and Maintenance of the School Buses.-

(1) Type of Body.- Every School Bus shall be of semi-saloon type with steel body and no vehicle shall be covered with canvass hood.

(2) Painting.- Every School Bus shall be fully painted as follows as specified in rule 349-A of the Tamil Nadu Motor Vehicles Rules, 1989:-

(a) Every School Bus shall be fully painted in yellow colour.

(b) The inscription "School Bus" (பள்ளிப் பேருந்து) shall be painted in the front and rear top of the School Bus, as the case may be, in bold and clearly visible letters.

(c) On both exterior sides of the School Bus in a circle of 60 centimeter diameter, and on both the front and rear exterior sides, in a circle of 20 centimeters diameter, the following diagram shall be painted, in dark blue colour with yellow background.

(d) The particulars of name and address of the School, contact phone number, mobile phone number etc., shall be painted on exterior of the body of the School Bus on the left rear side.

(e) The name of the School shall be written conspicuously at the top of the front and rear ends and on both sides of the body of the School Bus and the writing shall be horizontal.

(f) In the rear right side of the School Bus the contact number of Transport Officer in-charge of the School, local Regional Transport Officer and Police authority should be painted. A separate e-mail ID shall be created and displayed for registering the complaints.

(3) Entrance-cum-exit.- In every School bus, there shall be one entrance-cum-exit in the front left side. Hand rails shall be fixed firmly along the steps in the front entrance-cum-exit. It shall be provided with a suitable door.

(4) Doors.- In every School Bus, the door in the entrance-cum-exit shall be well maintained to ensure safe locking and also easy unlocking.

(5) Foot Board.- In every School Bus, the first step of the foot-board shall be at a height not exceeding 300mms and not less than 250 mms from the ground and all steps shall be fitted with non-slip treads. In case the School Bus is used exclusively for the conveyance of differently abled students, the steps

shall be suitably constructed to suit their convenience. In the case of a Bus, which is used as a School Bus, these structural changes should be carried out before the 1st November 2012.

(6) Driver's Cabin.- In every School Bus, grilled partition shall be provided to separate driver cabin. In the case of a Bus, which is used as a School Bus, this structural change shall be carried out before the 1st November 2012.

(7) Seats.- In every School Bus, all the seats shall be firmly fixed to the floor board by bolts or studs and nuts and fastened by some efficient device to the floor board so as to prevent them coming loose.

(8) Bag racks.- In every School Bus, suitable grilled provision shall be made for bag racks under the seat for keeping bags and other things of the students.

(9) Floor Board.- In every School Bus, the floor boards shall be so fitted as to exclude as far as possible draughts and dust. If any part of the floor board caves in or weakens, no patch work shall be done. Instead, the entire length and breadth of that stretch of the floor board shall be replaced by the new floor board.

(10) Windows.- Every School Bus shall be provided with windows on either sides of size not less than 55cms x 70cms.

(11) Window grill.- In every School Bus, three horizontal steel bars shall be fixed on the exterior of the bus along the windows in such a manner that the distance between adjoining bars does not exceed 5cms.

(12) Emergency exit.-

(a) Every School Bus shall be fitted with an emergency exit door at the rear right side or at the rear wind screen with quick release latches mechanism which can be operated from inside and outside of the Bus.

(b) The emergency exit shall be in the form of a frame fixed with a toughened glass with dimensions of 150cms x 120cms or in the form of a door with the same dimension hinged at the top, capable of being operated both from inside and outside. The words "EMERGENCY EXIT" shall be prominently inscribed in red colour on a white background both inside and outside of the emergency exit.

(13) Reflecting Tape.- Every School Bus, shall have retro reflecting marking as specified in rule 104 of the Central Motor Vehicles Rules, 1989.

(14) First Aid Box.- In every School Bus, a first aid box containing articles as specified in sub-rule (5) of rule 172 of the Tamil Nadu Motor Vehicles Rules, 1989 shall be provided and replaced periodically.

(15) Fire Extinguisher.- In every School Bus, two fire extinguishers of ABC type having a capacity of 2kg each, bearing ISI mark shall be properly mounted.

(16) Fitment of Speed Governor.- In every school bus, speed controlling device (Speed governor) conforming to standards prescribed, shall be fitted so that the speed of the vehicle does not exceed 40 kilometer per hour within Corporation limits and 50 kilometer per hour in other places.

7. Special Permit Conditions.- In addition to the general conditions of permit specified in Section 84 of the Act and rule 172 of the Tamil Nadu Motor Vehicles Rules, 1989, the following special conditions shall be attached to every School Bus permit:

(1) No School Bus shall be fitted with any pressure horn or any other device for producing tonal sound which is operated on air pressure drawn from the braking system.

(2) No School Bus shall carry more number of persons than the seating capacity mentioned in the certificate of registration: Provided that in the case of School Buses only carrying children below the age of twelve years, 1.5 times of the seating capacity can be permitted.

(3) Log book must be maintained and kept available in School Buses for inspection by the inspecting officers authorized under the Act.

8. Special Cell for inspection and issue of Fitness Certificate.-

(1) Constitution.- A Special Cell shall be constituted for each Regional Transport Office and the unit office under the Chairmanship of the Zonal Joint Transport Commissioner or the Deputy Transport Commissioner, as the case may be, with the following inspecting officers of Transport Department for the purpose of issue and renewal of fitness certificates for school buses:-

(i) Regional Transport Officer of the region concerned.

(ii) Regional Transport Officer (Enforcement Wing)/Motor Vehicles Inspector Grade I/Grade II of Enforcement Wing.

(iii) Motor Vehicles Inspector Grade I of the concerned Regional Transport Office.

(iv) Motor Vehicles Inspector Grade II wherever available in the concerned Regional Transport Office.

(2) Functions.-

(i) It shall be the responsibility of the Joint Transport Commissioner / Deputy Transport Commissioner to prescribe the time table for inspections and also be present for at least 10% of the total number of inspections in each Regional Transport Officer's jurisdiction.

(ii) The Special Cell shall conduct the testing and inspection of School Buses according to Chapter VII of the Act, the rules made thereunder as well as these Rules.

(iii) Every School shall produce their School Buses before the Special Cell once in three months from the date of issue or

renewal of fitness certificate and shall obtain road worthiness certificate.

(iv) No School Bus shall be used on public roads except with a valid road worthiness certificate and fitness certificate obtained under section 56 of the Act from the Special Cell.

(3) Powers.- The Special Cell shall have the power to suspend or cancel the fitness certificate under rule 121 of the Tamil Nadu Motor Vehicles Rules, 1989 and such other penal action under the provisions of the Act.

9. Formation of Exclusive Parent Teacher Association.-

(i) As regards the operation and maintenance of the School Buses, the parents of those students who are being transported by the School Buses should have a major say. In order to enable such parents to make any representations with regard to the conduct of drivers and attendants, maintenance of School Buses and safety of the students, an exclusive Parent Teacher Association headed by the Principal/Headmaster with such parents (whose children are being transported to school by School Buses) as members shall be formed in every school.

(ii) The Association shall meet once in a month. The views, suggestions and complaints made by the parents should be duly considered and recorded by the Principal/Headmaster. On the same day, the minutes of the meeting should be sent to the School Level Transport Committee specified in rule 10.

(iii) The Principal/ Headmaster who is also the Chairman of the School Level Transport Committee shall convene the meeting of the Committee on the same day to consider the representation received from the Association and take necessary action to redress the issues.

10. School Level Transport Committee.- (1) Constitution.- Every School shall have a School Level Transport Committee to look into the matters pertaining to safe transportation of school children. The committee shall be headed by the Principal/Head Master of the School and consists of the following members namely:-

(i) Police Official not below the rank of Sub-Inspector of Police of the area concerned.

(ii) An official from the Educational Authority concerned.

(iii) The Motor Vehicles Inspector Grade I / Grade II of area concerned.

(iv) A representative from the Parent Teacher Association.

(2) Functions.-

(i) The committee shall meet atleast once in a month on the same day on which the meeting of the Parent Teacher Association is held. It shall discuss about the matters pertaining to safe transportation of the school children and evolve suitable plan of action. It shall verify the documents relating to the School Buses viz. Certificate of Registration, Certificate of

Fitness, Certificate of Insurance, Permit, Pollution under control Certificate, Driving Licence and ensure the provision of Fire Extinguisher and First Aid Kit.

(ii) The Committee shall consider the representation received from the Parent Teacher Association and take necessary action to redress the issues on the same day.

(iii) The committee shall send a report to the District Level Inter-Departmental Committee constituted under rule 11, for necessary action.

11. District Level Inter - Departmental Committee.-

(1) Constitution.-There shall be a District Level Inter-Departmental Committee for each district to discuss and decide on the issues pertaining to safety of children and their transportation. The committee shall be constituted under the Chairmanship of local Revenue Divisional Officer / Sub-collector / Assistant Collector at district head quarters, as the case may be, with the following official as members:-

(i) Regional Transport Officer (Member Secretary).

(ii) Deputy Superintendent of Police.

(iii) Chief Educational Officer and District Educational Officer.

(iv) Motor Vehicles Inspector Grade-I/Grade-II.

(2) Functions.-

(i) The Committee shall meet once in three months and evolve an action plan to conduct inspection of School Buses either in the premises of the school concerned or in such other places as to be decided so as to ensure whether the School Buses comply with the provisions of these Rules.

(ii) The Committee will function as a flying squad to enforce the provisions of these rules and the conditions of permit specified in Section 84 of the Act and they shall exercise the powers under section 207 of the Act.

(iii) The programme of inspection shall be decided in such a manner that a particular School Bus is inspected by the committee atleast once in a year.

(iv) The Committee shall, at the time of inspection, verify the log book written by the driver of the School Bus and verify all the records as to whether the defects pointed out by the driver in the log book are rectified or not.

(v) Based on the Committee's report, the Regional Transport Officer shall take action to suspend or cancel the fitness certificate under rule 121 of the Tamil Nadu Motor Vehicles Rules, 1989 and such other penal action under the provisions of the Act.

R. RAJAGOPAL,
Principal Secretary to Government.

Board of Secondary Education (CBSE) has issued guidelines in circular No.CBSE/AFF/Circular-9/20171217401 dated 23.02.2017 for safety of the school children in the school bus. As per Annexure-I, clause 2(g), Global Positioning System (GPS) and CCTV arrangement should be made compulsorily in each school bus. It shall be ensured by the owner of the bus that the GPS and CCTV thus installed, is kept in working condition at all the time. Circular No.CBSE/AFF/Circular-9/20171217401 dated 23.02.2017, is reproduced.

Sub.: Safety of school children in the school bus.

The Central Board of Secondary Education (CBSE) has always been an ardent advocate of pursuing 'Student centric policies' which inter alia includes curricular, co- curricular and health aspects for holistic development of the child's personality. The advisories issued by the Board in form of various circulars, the emphasis on compliance of its Affiliation bye-laws and various directives of the Government as well as the judgments pronounced by the Courts - aim at achieving this endeavor.

2. Hon'ble Supreme Court of India, vide judgment dated 16-12-1997 in W.P.(Civil) 13029 of 1985 in the case of Sh. M.C Mehta Vs Union of India & Others, sensing the gravity of the issue has issued the order which, inter alia includes guidelines for safe plying of school buses and to ensure the safety of school children travelling in the bus.

3. However, the recent unfortunate instances reported in the media about callous approach by certain schools with respect to the safety of school children during transit to and fro to the school have again agitated deep concern regarding the safety of the school children. The time has come to make the schools sensitive to this serious issue and to take proactive remedial measures to ensure that safe transport for school children becomes one of the paramount safety objectives for every CBSE affiliated school.

4. CBSE Affiliation bye-laws (Chapter II, Rule 8.5) read with

CBSE Circulars No.28/2004 dated 26.07.2004, No.01/2012 dated 08.06.2012, No.20/2014 dated 06.02.2014 and No.04 dated 28.10.2016 bear exhaustive provisions which are to be followed by every CBSE affiliated school for safety of school children during transit. The faith, trust and responsibility reposed in schools by parents should be the cardinal guiding beacon for every school to meet the expectations and contribute towards nurturing of young citizens of the country.

5. Taking into consideration the judgment pronounced by the Hon'ble Supreme Court, the statutory provisions, directives of the State Governments, provisions in Affiliation bye- laws and circulars issued by CBSE from time to time, a comprehensive guidelines have been consolidated, which is enclosed as Annexure- I. These guidelines should be scrupulously followed and complied with by all affiliated schools, as an integral part Affiliation bye-laws.

6. The Management and the Head of the CBSE affiliated schools will be held responsible for any lapse in this regard which would invite appropriate action including the disaffiliation of the school as per the provisions under Affiliation bye-laws.

(K.Srinivasan)

Deputy Secretary (Affiliation)

Copy for information and compliance:

- i. All the Principals of the Schools Affiliated to the CBSE.
- ii. All the Managers of the Private unaided Schools Affiliated to the CBSE.
- iii. The Director of Education, Delhi, Chandigarh, Arunachal Pradesh, Sikkim, Port Blair.
- iv. The Director, Secondary Education Department of all States.
- v. The Commissioner, Kendriya Vidyalaya Sangathan, 18-Institutional Area, Shaheed Jeet Singh Marg, New Delhi - 110016.
- vi. The Commissioner, Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi.
- vii. The Director, Central Tibetan School Administration, Ess Ess Plaza, Community Centre, Sector-3, Rohini-85.
- viii. EO to Chairman, CBSE
- ix. All HODs of CBSE.
- x. The Director (IT), CBSE, Delhi - for uploading the Circular on CBSE Website.
- xi. The Joint Secretary (A&L), CBSE, Preet Vihar, Delhi.
- xii. The Joint Secretary (Co-ordination), CBSE, Delhi.

- xiii. All Regional Officers of CBSE- for dissemination of the circular and guidelines through bulk mail to all affiliated schools in their respective region.
- xiv. The PRO, CBSE, Delhi for appropriate dissemination and publicity.
- xv. The Research Officer (Technology), Affiliation, CBSE - for further circulation to all stakeholders.
- xvi. Guard File

Annexure-1

GUIDELINES FOR TRANSPORT FACILITIES IN SCHOOLS

1. Exterior of the Bus

- a) School buses should be painted yellow with name of the School written prominently on both sides of the bus so that these can be identified easily.
- b) "School bus" must be prominently written on the back and front of the bus carrying school children. If, it is a hired bus, "On School Duty" should be clearly written.
- c) Details of the Driver (name, address, licence number, badge number) and Telephone no. of the school or owner of the bus, Transport Department's Helpline number and Registration number of the vehicle shall be displayed at prominent places inside and outside the bus in contrast colour. It is to be clearly visible to all the passengers in the bus and to the public so that in case of necessity, the school authority/ police or other authorities can be informed.

2. Interior of the Bus

- a) The windows of the bus should be fitted with horizontal grills and with mesh wire.
- b) The doors of the bus should be fitted with reliable locks that can be locked.
- c) The school authorities must ensure that emergency exit doors are installed in each school bus.
- d) The school buses should be fitted with speed governors with maximum speed limit of 40 km/ph.
- e) The school authorities should ensure that every school bus should possess two fire extinguishers of ABC type of 5 kg capacity having ISI mark. One of which should be kept in the driver's cabin and second near the emergency exit door.

Similarly, training should be given to the driver, conductor and lady attendant/guard to operate the fire extinguisher.

- f) The seats of the school bus must be of non-combustible materials for safety of school children.
- g) Global Positioning System (GPS) and CCTV arrangement should be made compulsorily in each school bus. It shall be ensured by the owner of the bus that the GPS and CCTV thus installed, is kept in working condition at all the time.

3. Manpower in the Bus

- a) Each school should designate one Transport Manager who will be entrusted with the responsibility to ensure the safety of school children travelling by school bus. Name and contact details of the Transport Manager of the school must be prominently displayed outside and inside the school bus.
- b) The driver of the school bus shall possess a valid driving licence and must have minimum five years of experience of driving heavy vehicles.
- c) In addition to the driver, there shall be a conductor, holding a valid licence, deployed in each bus, and his qualification, duties and functions should be in consonance with the provisions in Rule 17 of Motor Vehicles Rules, 1993.
- d) Provision shall be made by the school authorities for at least one well-trained lady attendant, preferably a lady guard, in each school bus, to attend the school children travelling in the bus, who will ensure safe travel of the children during the entire journey and also render adequate assistance for safe boarding and de-boarding of the children.
- e) The school authorities are also directed to voluntarily evolve an arrangement, as far as possible, that in each school bus at least one parent should be present, who would oversee the conduct of the driver and other staff present in the bus during the journey. This step would ensure that safety measures are complied with in letter and spirit and the driver drives carefully.

- f) Under no circumstances any outsider except the bus driver, conductor, the authorized well trained lady guard and one parent of wards, shall be allowed to board the school bus.

4. Facilities in the Bus

- a) The school bus must have a First Aid Box and drinking water.
- b) To keep the school bags safely, there shall be a space fitted under the seats or at a convenient place inside the bus.
- c) The school buses shall be fitted with alarm bell and siren so that in case of emergency everyone can be alerted.
- d) The school bus shall not be fitted with curtains or glasses having films.
- e) The school bus shall have sufficient white lighting inside the bus.
- f) Activities inside the school bus should be visible from outside whenever the bus is plying on road.

5. Permits

- a) Affiliated schools shall not own or hire any transport service which does not have valid permit or do not fulfill the requisite permit conditions prescribed by the State Transport Departments.
- b) There should be valid Insurance of the school bus as well as passengers in the bus as per "The Motor Vehicles Act 1988".
- c) Medical checkup regarding the physical fitness of the driver including eye testing shall be made every year. Fitness certificate issued by the competent authority shall be obtained as per the safety standard under "The Motor Vehicles Act 1988".
- d) The driver who has been challaned more than twice in a year for any kind of offences which inter alia include red light jumping, violation of lane discipline or allowing unauthorized person to drive, cannot be employed by the school authorities.
- e) The driver who has been challaned even once for the offence of over speeding, driving dangerously or for the offences under section 279, 337, 338 and 304A of the Indian Penal Code or

under POCSO Act, 2012 cannot be employed by the school authorities.

- f) The driver shall be dressed in the uniform of grey trouser and jacket or as prescribed by the State Transport Department with his name plate along with name of owner of the school bus distinctly embossed.
- g) The school bus shall be driven by a driver having valid public service vehicle badge with photograph issued by the State Transport Department.
- h) If age of the students is below 12 years, the number of students carried shall not exceed 1 /4 times the permitted seating capacity and the students above 12 years shall be treated as one person.
- i) Periodical fitness certificate regarding roadworthiness of the school bus shall be obtained as per "The Motor Vehicles Act 1988"
- j) Any school authority and/or the driver of the school bus found to have violated the provision of "The Motor Vehicles Act 1988" and the rules framed thereunder as well as of the directions of the Board, State Government and the Courts must be penalized.
- k) In case of hired school buses, the school authorities shall enter into a valid agreement with the owner / transporter of the school bus and the driver of the school bus shall carry a copy of such agreement.
- l) The record having details of the students ferried indicating the name, class, residential address, blood group, points of stoppage, route plan should always be kept in readiness with the bus conductor inside the school bus.
- m) Whenever a contract carriage is used for carrying the school children, the owner of the vehicle must give intimation to the local police station as well as the concerned District Traffic Police Authority clearly indicating the name of the driver and particulars of the vehicle etc.
- n) The school bus drivers are restricted to use mobile phone while driving the school bus and are restricted to have interactions

with the students and bus staff beyond a limit.

6. Arrangements to be made by school authorities

- a) The school authority shall ensure that the doors of the school buses shall remain shut while the bus is in moving condition.
- b) They will ensure that the school buses halt only at bus stops designated for the purpose and within the marked area.
- c) The school authority shall make safe arrangement for boarding and deboarding of school children from the school bus.
- d) The school bus will remain in stationary mode while boarding and deboarding of school children from the school bus.
- e) Refresher training course with a view to fine-tune and increased proficiency of driving shall be imparted to drivers of the school bus periodically i.e. twice in a year.
- f) No driver shall be allowed to drive the school bus in a drunken condition. Regular check up in this regard shall be undertaken by the school authorities. In case of any suspicion, the driver of the school bus must be subjected to 'Medical Test' immediately and appropriate action including action for cancellation of the driving licence shall be undertaken.
- g) The school authority must provide one mobile phone in each school bus so that in case of emergency the school bus can be contacted or the driver/ conductor of the school bus can contact the Police, State authority and the school authority.
- h) The school authority shall ensure that the school buses are not permitted to over-take any four wheeler while carrying the school children.
- i) The school authority shall ensure to train the students to maintain discipline while boarding, commuting and de-boarding the school bus so that no one gets hurt.
- j) The school authority shall make necessary arrangements for parking of the school buses inside the school campus at the time of boarding and de-boarding of school children.
- k) In case it is not possible to park the school buses inside the school campus, the school buses must be parked in such a way

so that it does not create any traffic hazard for other vehicles.

- l) Periodic feed-back from school children using school Transport facility with regards to driver/conductor be taken and records are to be maintained.
- m) The school authority should encourage the students to conduct programs through play, exhibition etc. during the Road Safety Week to create the awareness in public.

7. Advisory to Parents

- a) Parents are equally responsible for the safety of their children during school journeys.
- b) Parents must ensure that the mode of transport arranged by the school authorities or by themselves is absolutely safe for children.
- c) They should note down the violations committed by the driver and other staff of the school buses and immediately report to the school authorities or the concerned State authorities.
- d) Parents must participate in PTA meetings and discuss the safety aspects of their children.
- e) Parents must avoid using the transport services from vehicles not having valid licence or permit to carry the school children.
- f) Parents must play the role of a vigilant observer on this sensitive subject.

सत्यमेव जयते

(K.Srinivasan)

Deputy Secretary (Affiliation)

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9. On the aspect as to whether, educational institutions' buses, owned or engaged by the schools affiliated to CBSE, New Delhi, comply with the requirements of installation of GPS and CCTV, we requested Mr.G.Nagarajan, learned standing counsel for CBSE to assist us.

10. Mr.G.Nagarajan, learned standing counsel for CBSE submitted

that after the decision of the Hon'ble Supreme Court, extending certain

provisions of Right to Information Act, 2005, to the schools affiliated to the CBSE, New Delhi, the guidelines / circular dated 23.02.2017 issued by the CBSE, New Delhi, is not being implemented. He further submitted that CBSE affiliation bye laws have been amended and as per Clause 4.7.7 of the new guidelines issued by the CBSE, New Delhi, the School should scrupulously observe prescription from the State Government / Municipal Authority / Transport Department regarding health & hygiene, drinking water, fire safety, building safety and transport precautions in the school. For brevity, details of the new CBSE Affiliation bye laws regarding Physical Infrastructure, safety etc., are reproduced hereunder.

4.7. Drinking water. Toilets and other Physical Facilities

- 4.7.1. The School will provide adequate facilities for potable drinking water on each floor.
- 4.7.2. The School will provide clean healthy and hygienic toilets on each floor with washing facilities for boys and girls separately in proportion to the number of students. The toilets for the primary students should be separate from other toilets. There should be separate toilets for staff members. Signage Boards should be displayed prominently on the toilets of all categories.
- 4.7.3. The School shall provide proper facilities like, ramps in toilets and at entry/exit points for wheelchair users and auditory signals in elevators/lifts in accordance with the provisions laid down in RPWD Act- 2016.
- 4.7.4. The School should have suitable furniture in the Classrooms commensurate with the strength of students and staff.
- 4.7.5. The school should have the needed equipment and facilities as per the syllabus prescribed for Sciences, Home Science, Technical subjects, Vocational subjects and various activities under Work Experience and Art Education etc.

4.7.6. The school shall follow the guidelines related to the safety of the children in schools contained in the following:

- (a) The guidelines issued by the Hon'ble Supreme Court of India in **Writ Petition (Civil) no. 483 of 2004** in the matter of Avinash Mehrotra (Petitioner) Versus Union of India & Others (Respondents)
- (b) The Guidelines on **School Safety Policy, 2016** issued by the National Disaster Management Authority which is statutory in nature.
- (c) **Manual on Safety and Security of Children in Schools** Developed by National Commission for Protection of Child Rights.
- (d) **National Building Code-2005**, as amended from time to time.

4.7.7 "The School should scrupulously observe prescription from the State Government/Municipal Authority/Transport Department regarding health & hygiene, drinking water, fire safety, building safety and transport precautions in the school.

4.7.8. The School should have adequate facilities for providing recreation activities and physical education as well as for conduct of various activities and programs for developmental education and for the social, cultural and moral development of the students and for safeguarding their health.

4.7.9. PLAY GROUND

Adequate ground to create outdoor facilities for at least 200 meter Athletics Track. Facilities for Kabbadi, Kho-Kho, Volleyball, basketball etc.

11. Though, Mr.S.Gopi Krishnan, petitioner herein has brought to the notice of this Court, newspaper reports, indicating that young children have been physically abused and that installation of CCTV and GPS in every school bus would ensure the parents monitoring the movement of the school bus, through an official website which would eventually ensure the safety of the school children, no rules or regulations, have been pointed out by the

petitioner, for issuance of a writ of mandamus. At this juncture, we wish to point out that a writ of mandamus can be issued only under certain circumstances and on that aspect it is worthwhile to consider few decisions.

(a) In the decision reported in **(1996) 9 SCC 309 (State of U.P. and Ors. v. Harish Chandra and Ors.)** in paragraph 10, the Apex Court held as follows:

10. ...Under the Constitution a mandamus can be issued by the court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and the said right was subsisting on the date of the petition....

(b) In the decision reported in **(2004) 2 SCC 150 (Union of India v. S.B. Vohra)** the Supreme Court considered the said issue and held that 'for issuing a writ of mandamus in favour of a person, the person claiming, must establish his legal right in himself. Then only a writ of mandamus could be issued against a person, who has a legal duty to perform, but has failed and/or neglected to do so.

(c) In the decision reported in **(2008) 2 SCC 280 (Oriental Bank of Commerce v. Sunder Lal Jain)** in paragraphs 11 and 12 the Supreme Court held thus,

11. The principles on which a writ of mandamus can be issued have been stated as under in The Law of Extraordinary Legal Remedies by F.G. Ferris and F.G. Ferris, Jr.:

Note 187.-Mandamus, at common law, is a highly prerogative writ, usually issuing out of the

highest court of general jurisdiction, in the name of the sovereignty, directed to any natural person, corporation or inferior court within the jurisdiction, requiring them to do some particular thing therein specified, and which appertains to their office or duty. Generally speaking, it may be said that mandamus is a summary writ, issuing from the proper court, commanding the official or board to which it is addressed to perform some specific legal duty to which the party applying for the writ is entitled of legal right to have performed.

Note 192.-Mandamus is, subject to the exercise of a sound judicial discretion, the appropriate remedy to enforce a plain, positive, specific and ministerial duty presently existing and imposed by law upon officers and others who refuse or neglect to perform such duty, when there is no other adequate and specific legal remedy and without which there would be a failure of justice. The chief function of the writ is to compel the performance of public duties prescribed by statute, and to keep subordinate and inferior bodies and tribunals exercising public functions within their jurisdictions. It is not necessary, however, that the duty be imposed by statute; mandamus lies as well for the enforcement of a common law duty.

Note 196.-Mandamus is not a writ of right. Its issuance unquestionably lies in the sound

judicial discretion of the court, subject always to the well-settled principles which have been established by the courts. An action in mandamus is not governed by the principles of ordinary litigation where the matters alleged on one side and not denied on the other are taken as true, and judgment pronounced thereon as of course. While mandamus is classed as a legal remedy, its issuance is largely controlled by equitable principles. Before granting the writ the court may, and should, look to the larger public interest which may be concerned-an interest which private litigants are apt to overlook when striving for private ends. The court should act in view of all the existing facts, and with due regard to the consequences which will result. It is in every case a discretion dependent upon all the surrounding facts and circumstances.

12. When a Writ of Mandamus can be issued, has been summarised in Corpus Juris Secundum, as follows:

“Mandamus may issue to compel the person or official in whom a discretionary duty is lodged to proceed to exercise such discretion, but unless there is peremptory statutory direction that the duty shall be performed mandamus will not lie to control or review the exercise of the discretion of any board, tribunal or officer, when the act complained of is either judicial or quasi-judicial unless it clearly appears that there has been an abuse of discretion

on the part of such Court, board, tribunal or officer, and in accordance with this rule *mandamus* may not be invoked to compel the matter of discretion to be exercised in any particular way. This principle applies with full force and effect, however, clearly it may be made to appear what the decision ought to be, or even though its conclusion be disputable or, however, erroneous the conclusion reached may be, and although there may be no other method of review or correction provided by law. The discretion must be exercised according to the established rule where the action complained has been arbitrary or capricious, or based on personal, selfish or fraudulent motives, or on false information, or on total lack of authority to act, or where it amounts to an evasion of positive duty, or there has been a refusal to consider pertinent evidence, hear the parties where so required, or to entertain any proper question concerning the exercise of the discretion, or where the exercise of the discretion is in a manner entirely futile and known by the officer to be so and there are other methods which it adopted, would be effective." (emphasis supplied)

13. A prerogative writ, like, a *Mandamus* cannot be demanded *ex debito justitiae*, but it can be issued by the court in its discretion, for which, it must be shown that, there is a non discretionary legal duty upon the authority against whom, the relief is sought for and that the person approaching the High Court under Article 226 of the Constitution of India, has to prove that he has a legal right to be enforced against the authority,

for the failure of performance of a legal or statutory duty, by the authority against whom, the relief is sought for.

14. As such there is no rule or obligation, either by the educational department or transport department, obligating the educational institution's buses to be provided with CCTV and GPS.

15. From the above it is evident that the prior to the decision of the Hon'ble Supreme Court, holding that provisions of the Right to Information Act, 2005 can be extended to CBSE Schools, affiliated under the regulations / bye laws, guidelines / circular dated 23.02.2017, has been issued directing that CCTV with GPS should be made compulsory in each school bus and circular further states that it should ensured by the owner of the bus that the GPS and CCTV thus installed, is kept in working condition at all times.

16. CBSE has issued guidelines for the safety of school children in school buses. But the same could not be given effect on account of the decision of the Hon'ble Supreme Court. However, as per Clause 4.7.7 of Chapter 4 dealing with Physical Infrastructure, CBSE has categorically stated that the School should scrupulously observe prescription from the State Government / Municipal Authority / Transport Department regarding

health & hygiene, drinking water, fire safety, building safety and transport precautions in the school which means that state government have to consider the above aspect.

17. Attention of this Court was also invited to a decision of a Hon'ble Division Bench of this Court in WP Nos.30349 of 2012 etc batch of cases, wherein, when Tamil Nadu Nursery, Primary, Matriculation and Higher Secondary Schools Association, represented by its General Secretary K.R.Nandhakumar, challenged the Rules 4(2) to Rule 4(5), Rule 5, Rule 6(5), Rule 6(6), Rule 6(11), Rule 6(12), Rule 8, Rule 9, Rule 10 and Rule 11 of the Tamil Nadu Motor Vehicles (Regulation and Control of School Buses) Special Rules, 2012 as arbitrary, illegal and unconstitutional and ultra vires the provisions of the Motor Vehicles Act, 1988, a Hon'ble Division Bench passed a common order dated 16.03.2017, in the abovesaid writ petitions, as hereunder.

" 4. Originally these matters were listed before the Larger Bench. In the order dated 31.03.2016, the Larger Bench observed as under:-

"Learned counsel for parties point out that there is actually no difference of opinion on which a reference could be made before a Bench of three Hon'ble Judges and thus, the validity should be decided by a Division Bench. To us, it appears to be the correct position.

2.Learned counsel for the petitioners do agree that in view of the safety of school children involved and the experience gained over the last four years of its working, this is not really an adversarial litigation. They, however, express some difficulties experienced in implementation and thus,

submit that those difficulties can be attended to, there would be no reason to challenge the provisions.

3.It has, thus, been requested to the learned counsel for the petitioners to collectively submit the major problem in its implementation, which they perceive and the solution thereof, so that the same can be put to the respondents / State Government.

4.List before the First Bench on 20.04.2016.”

5. Pursuant to the order of the Larger Bench dated 31.3.2016, the matter was listed before the First Bench. On 20.4.2016, the petitioners have filed their suggestions/objections. On 15.11.2016, when the matter was taken up for hearing, the learned counsel for the petitioners stated that only two Rules viz., Rule 5(2) and 8(2)(iii) require some re-examination by the respondents. Accordingly, this Court, considering the restricted relief sought, called upon the State Government to have a re-look into this issue and take necessary action. The order dated 15.11.2016, reads as under:-

“We have heard the learned counsel for the parties.

2. We are of the view that there are only two Rules which require some re-examination by the respondents.

3. Before we proceed to those two Rules, we may clarify the apprehension in respect of Rule 4(2) requiring the driver to have a minimum driving experience of at least 5 years. The words "same category vehicles" are being misread, in that they would imply that the drivers should have been driving only a School bus, as learned Advocate General clarifies, the restriction to the category of vehicle - bus.

4. Rule 5(2) provides for an attendant to be not less than 21 years of age and not more than 50 years of age. Apart from that he should be medically fit to get down from the School bus at each stopping point to facilitate the embarkation of

School children.

5. We do believe that the restriction of an upper age limit of 50 years is really not required, as it should be the retiring age, especially in the context of the second part of that Rule, which required medical fitness.(8)

6. In Rule 8(2), Clause (iii) provides for the School bus to be inspected by Special Cell once in three months, though the norms are three years for all other buses. On our query, learned Advocate General states that running time of a School bus definitely much less than other buses. We are thus of the view that there can be a consistent norm in this as what is required is that the bus should be mechanically or otherwise in order.

7. Limited to the aforesaid two aspects, we call upon the State Government to have a re-look into this issue and take necessary action.

No other challenge is pressed before us.

List on 20.12.2016.”

6. It appears that the writ petitioners who are owning the school buses have been directed by the Committee to adhere to certain principles of rules, so as to avoid reoccurrence of any such untoward incidents in future.

7. As far as Rule 5(2) of the Special Rules is concerned, the learned counsel for the petitioners submit that restricting the age of the attendant to 50 years is not acceptable and it contradicts the retiring age. We do not find any merit in the above said submission of the petitioners. In case of emergency situation, the attendant should have physical ability to lift and carry small children through the emergency Exit to the ground from outside the bus. We hold that the Committee after thorough examination and also in the light of the decisions of the Apex Court has correctly framed Rule 5(2).

8. Rule 8(2)(iii) stipulates that every school shall produce their school buses before the Special Cell once in three months from the date of issue or renewal of fitness certificate and shall obtain road worthiness certificate. Considering the difficulties expressed by the schools, we are of the view that three months period specified needs to be altered. The learned Advocate General during the course of arguments did not seriously object the same. Thus, the period specified under Rule 8(2)(iii) as "once in three months" needs to be modified as "once in six months". Accordingly, we direct the State to make necessary amendments in the said rule.

9. Before parting, we would like to take note of the plea of the learned counsel for the petitioners that as far as Government buses are concerned, two-third of the seats are occupied by the school going children during peak hours and the State Government has not imposed any restriction to their own buses and there are no safety measures available in the Government buses for the children and seek necessary direction to the State Government and the same amounts to hostile discrimination. In this regard, we direct the State Government to look into this issue and if possible issue necessary guidelines in the light of the submissions made by the learned counsel for the petitioners and take care of the safety of the children travelling even in Government buses.

10. The writ petitions are disposed of in terms aforesaid. No costs."

18. Earlier in HCP No.2946 of 2014, dated 20.03.2015 a Hon'ble Division Bench of this Court, to which one of us [Hon'ble Mr.Justice S.Manikumar] was a party, issued certain directions. Though the said directions inter alia relate to investigation of missing persons and tracking of public transport vehicles, we deem it fit to extract the same for the

purpose, as to whether the State Government would extend the same for school buses also.

"Earlier, Madurai Bench of the Madras High Court in H.C.P.(MD)No.1270 of 2013 and 34 and 1095 of 2014, dated 25.09.2014, has issued the following directions,

"14. Considering the material on record placed before us, by the Commissioner of Police, Madurai City, Madurai and Dr.C.Ramasubramaniam, State Nodal Authority for Mental Health Programmes and the need to have effective coordination, involving various State and National authorities, in Crime detection, particularly, Human Trafficking, offences against women and children, tracing out missing of persons of unsound mind and adolescents, particularly, girl children, we deem it fit to issue following guidelines:-

(a)Whenever any information about a missing person is received in a police station, photograph and other identification details of the missing person should be collected from his relatives/friends. Based on this information, the police shall publish the photograph of the missing person in the newspapers, give wide publicity in local TV and other TV channels and radio, publish and distribute pamphlets, among the public, giving description of the missing person. The uploading should be in Tamil Nadu Police website.

(b) Photographs and personal details of the missing persons should be uploaded and maintained in the DCRB, State Crime Record Bureau, State Anti-Trafficking Unit, National Crime Record Bureau Websites and it should be made accessible to all the members of the public.

(c) In order to monitor the cases, registered in connection with missing persons, a dedicated Police Officer, in the rank of

Deputy Superintendent of Police, be appointed in each sub-division. He should be assigned a specific task of collecting all the materials, within the sub-divisional jurisdiction and co-ordinate with local police.

(d) Particulars uploaded should also include the contact details of the respective police stations, officer in charge of the investigation and the complainant.

(e) As all the persons may not have computers or knowledge to have access to the official websites, a register shall be maintained at the District Head Quarters, viz., Directorate of State Crime Record Bureau and State Headquarters, Chennai.

(f) A nation wide database of all the missing persons may be posted in a separate website, with all the available details such as, photographs, finger prints, identification marks, voters I.D. Details, Passport details, Driving Licence details, Aadhar Card Details, etc. Immediately, on registering an FIR, the details of the missing person should be uploaded in the database. A wide publicity may be given in the media/news papers to the public, to utilize the database and inform the police, if any persons, figuring in the database are found in streets, roads and other places.

(g) For prevention of crime, photographs of known delinquents are displayed in public places, like Railway Stations, Bus Stands and Cinema Theatres. Likewise, for detection, photographs and other details of the missing persons, may also be notified in such public places.

(h) Visual media is more effective than print media. The Licencing Authority for a Cinema Theatre is the Commissioner of Police or the District Collector, as the case may be. The said authorities may explore the possibility of issuing directions to the Theatre Owners to post the photographs and other details of the missing persons, within his jurisdiction, before screening the movie, or the Secretary to the Government, Home (Cinema), Government of

Tamil Nadu, may issue necessary directions. Directions can be issued under the Cinematograph Act, 1952 and the Rules framed thereunder. Directions to be issued to the Theatre Owners, is in public interest. Therefore, the Theatre Owners may be directed to strictly follow the same.

(i) A State Level Officer in the rank of Inspector General of Police and a Special Team, duly assisted by Officers, in different capacities, be constituted in the department of State CB CID Headquarters, with a specific nomenclature and the said Bureau, shall be the Apex body in charge of all the cases relating to missing persons of unidentified bodies.

(j) A Deputy Superintendent of Police, be appointed as a Nodal Officer. He shall collect all the information from the Police Stations, throughout the State and a State Level Data Base, be maintained. Such database should also be maintained at the District Crime Record Bureau and updated, on day-to-day basis, by the Superintendent of Police, in the respective districts.

(m) Apart from the District Superintendents of Police, within whose jurisdiction, crime is registered, the Special Bureau shall report to the Additional Director General of Police, CBCID and the Director General of Police, State of Tamil Nadu.

15. The Director General of Police/CBCID, State of Tamil Nadu is directed to instruct the Director State Crime Record Bureau, to forward the details of the missing persons to their counter parts in other States. Dedicated officers may be directed to visit other states, to secure them, if any complaint is received.

16. Tamil Nadu Police website, particularly, Crime Record Bureau, be linked with websites of other States, so that whenever a person is reported to be missing, it would enable the Tamil Nadu SCRB or CBCID, to verify and cross-check with the details of the photographs and other particulars of the missing person, in other States.

17. Details collected by the State Authorities and kept as a permanent record, while issuing Aadhar Cards to the citizens be verified, by the Police Authorities, to find out as to whether the missing person has shifted his residence. A request can be made by the Secretary to the Government, Home Department, Government of Tamil Nadu or the Director General of Police, State of Tamil Nadu, to the competent authority, Government of India, viz., Director General and Mission Director, UID Authority of India, to link Aadhar details with the Tamil Nadu Police Server.

18. Election Voter ID particulars be directed to be verified to find out, as to whether, the missing person has obtained any voter I.D., in some other place. Details in the Public Distribution Ration Cards be directed to be verified by the investigating Officers. The official websites of the Election Commission of India and the Civil Supplies Department, State of Tamil Nadu, be linked with the server of Police Department. State Registration Department Website, be linked with the police server to find out as to whether the missing person has purchased any property, within Tamil Nadu.

19. State Transport Authority Website containing driving licensing particulars, be linked to the police server to find out, as to whether, the missing person has obtained, driving licence from any other place, other than his ordinary place of residence.

20. Details of investigation collected by the investigating officer, as to the whereabouts of the missing persons, likelihood of their movements in the area, other than the place, from where they were reported to be missing, are to be forwarded immediately, to the District Superintendent of Police, who shall immediately link it, with the District Crime Branch Record Bureau, Anti-Trafficking Unit and State CBCID, so that, all the agencies can effectively co-ordinate and speed up the investigation.

21. There is no accountability, if the investigating officer, has not shared the information to their counterparts. Some investigation

requires confidentiality. But the investigation of missing persons, can be shared.

22. Matching of photograph of the missing person with the unclaimed bodies is not done, in many cases. The Investigating Officer should be instructed to match the photographs immediately and periodically. If a missing person's body is notified in the police website, the body can be secured immediately by the Investigation Officer, before whom any crime is reported. Ordinarily these unidentified bodies are disposed of, after conducting a post-mortem. Not to undermine the sincerity of the Medical Officer, who conducts the autopsy, but unless it is a case of mysterious death, chances of the cause of death, being undetected, are there.

23. The Investigating Officer be directed to make a note in the CD file that he has verified the details hosted in the Police Website.

24. The suggestions given by Dr.C.Ramasubramanian, State Nodal Authority for Mental Health Programmes are also useful and they are as follows:

“A Committee can be formed under the Chairmanship of the Commissioner of Police or the District Collector to streamline the activities of such shelter homes in the district. The following Officials can be member of the committee

- * District Mental Health Authority*
- * The Joint Director of Medical and Rural Health Services*
- * The Deputy Director of Public and Preventive Medicines*
- * The District Welfare Officer for the Differently Abled*
- * The District Social Welfare Officer*
- * Representative from the Judicial Department*
- * Representative from the Police Department and Revenue Department*

24. The Committee can meet once in a three months to review the situation of the shelter homes. At first, they should

identify such shelter homes in the district and unlicensed home should be closed immediately. They should create a data base regarding the number of homes, details about the inmates, infrastructure facilities and medical facilities. Sensitise the police officials and other important stake holders like the owners of the homes regarding the importance of adhering to the rules and regulation of Tamil Nadu Mental Health Rules. With regard to the persons with homeless mentally ill, the concerned should inform the local police department within 24 hours or any member of the proposed advisory committee.”

25. Detection of missing/unsound mind persons by an individual should be recognised by giving cash awards, which can be met by the kith and kin. A reasonable amount can be fixed by the respective Superintendents of Police or by the Regional Inspectors General of Police. Details of the informers be kept secret. Certificate of appreciation can be given by the Police Department, to those, who assist the Police. Considering the gravity of medical illness and particularly the mindset of such mentally unsound persons to leave the house/clinic/residential area, the Secretary to the Government Health Department, may explore the possibilities of providing an advance telemetry system, like neck band transmitter or wrist band transmitter, which according to the Commissioner of Police, Madurai City, would hardly weigh few grams, with a battery life time of 3 or more years and that the same can be tied to the wrist or in some other safe place, which would enable the police, to track their whereabouts, easily, through satellite. The said instrument may be provided to the patients by the Government, at a low cost and be supplied to private hospitals/clinics also, on humanitarian grounds. Suggestions made by the Commissioner of Police, Madurai City, is appreciable, considering the human values and protection to be given to have-nots and crime detection.

26. As regards missing of unsound is concerned, the

complainant may furnish clear details of the missing unsound person, the places of treatment of any clinic/hospital, home or aslym, where he was taking treatment. For proper investigation, the complainant may furnish the photograph of the person, height, weight and other identifiable marks. On receipt of the same, all the government homes, institutions recognised by the Government or such other institutions, be immediately addressed through E-mails to respond, within a specific time a limit, so as to ascertain as to whether, such person, was ever treated, continued to be treated and discharged, etc.

27. An exclusive, dedicated help line, be created and linked to DCRB, SCRB and National data base, for lodging complaints about missing persons. On receipt of any information about the missing persons, through the help line, information be broadcasted/telecasted, in the visual media, without delay.

28. Details of the missing/mentally unsound persons, be collected, periodically and uploaded in Tamil Nadu Police Web-site. Homes/care centres be directed to prepare a data base and whenever the jurisdictional police officer or any other higher officer, seeks for information of any person of unsound mind, the same should be furnished immediately. It is to be borne in mind, right of privacy, be maintained. The information required should be only with reference to a crime.

29. The places, where unsound persons are left in lurch or handed over to somebody's care, be identified and the concerned jurisdictional officer in the rank of Inspectors be directed to collect the details of the inmates, from the centres, aslyms or other places. A database with photographs, identification marks be uploaded in the State Police Website of Missing Persons. There is no separate head for unsound persons. A separate head in the website be created.

30. Statistics have been furnished showing the number of

persons trained for the period between 2012-2014. But from the materials placed before us, and considering the number of police stations, across the length and breadth of the State, number of police personnel, particularly, in the rank of Inspectors and above, we are of the view that more and more higher police officials should be involved and given the training, as it would not be possible for them, to monitor as to whether the subordinate police personnel are applying the technology to the best of their ability.

31. Training should be given to the officers to study the details of a missing person about the use of social net working sites, such as, facebook or Orcut, etc. However, we wish to state that right of privacy should be maintained.

32. Training should be given to all the investigation officers, in the latest technologies, such as, Cyber Crime and other subjects, stated supra and should be made compulsory. The appointing authorities, while making appraisal of their performance of subordinate police officer, for promotion shall make a specific note regarding the knowledge and application of the latest technology in investigation.

33. The District Superintendents of Police shall be directed to conduct quarterly training in the latest technologies, in investigation and a training schedule for the same, should be devised, centrally, by the training branch of the Police Department. The Schedule should include training on mobile phone technology, GPS system, tracking through social networking sites and other programmes.

34. In the interest of speedy investigation, it is desirable that each service provider, offering mobile connections, to provide access to the Commissioners of Police, in Cities and Superintendents of Police in other areas, a separate ID and Password. The mobile numbers, for which call details record, is collected, be entered in a separate register and communicated to the service provider, then and there. Access by the Commissioners of Police or the

Superintendent of Police, as the case may be, be automatically recorded in the Office of the Service Provider, simultaneously, by use of any software programme.

35. It is said that feasibility of the exact location of an individual could be provided by the service providers, in addition to tower location if sought for.

“During the course of discussion, with the officials and the learned Public Prosecutors, it is brought to the notice of this Court that certain mobile service providers would provide paid service to monitor, the exact location of their employees, using technology called “Work Force Tracking System”. Workability of this system in tracking the missing persons could be explored. If the whereabouts of the employees could be located, by installing a suitable software, in the phones used by the employees, for the purpose of detection of crime, Police authorities are directed to explore the possibilities of seeking the assistance of such service providers, in operating GPS tracking.

36. One of the difficulties expressed by the Investigating Officers is that the service providers do not extend their assistance, if any request is made during night hours. As per the procedural Code, service provider/anybody can be examined for detention of crime and it is the duty of the service provider to assist the investigation, whenever evidence is sought for. Judicial Notice can be taken that usage of networking and mobiles during night time, by the general public is more. Criminals would make use of the above facility, more during night time. As reiterated, procedural code mandates assistance in investigation. Therefore, the Director General of Police, State of Tamil Nadu may request the service providers to render all necessary assistance in the matter of investigation of a crime and provide the call details immediately, whenever sought for, by the concerned, whether it is night or day. For the service providers, it is view of this Court, whatever is required by the

Investigating Officer, it is for investigation of a crime reported and it is their duty to provide the same. Right of privacy is not applicable to detect a crime.

37. Service providers may also be addressed to post a responsible person in the respective offices, to respond to the request of the concerned police officers, to furnish the call details immediately, irrespective of time. It is sincerely hoped that service providers would respond to such request, with a pragmatic and positive approach, that crimes should be, at the earliest. Prompt reply from the service providers would prevent recurrence also. Action under the procedural Code, can be taken, if required.

38. The crime registered shall be brought to the notice of the competent Court immediately and a Register be maintained, as to the details of call details sought for, from the service providers. The details shall be periodically sent to the District Superintendents of Police.

39. Whenever offences are committed, public transport vehicles are also used. Criminals avoid their own vehicles. In the case of public transport vehicles, installation of GPS be made compulsory. Suitable directions may be issued by the Director General of Police, State of Tamil Nadu. The Commissioner of Transports, Chennai, may also issue appropriate directions. However, this should be done only in the case of public transport passenger vehicles or goods carrying vehicles.

40. Issuance of smart cards, for public transport vehicles, carrying passengers or goods, with details of the owners of the vehicles be explored and the possibility of installation of suitable equipments, at the toll gates, be considered, so that if any public transport vehicle is involved, in any offence or required to be tracked or the details collected at the tolls, be directed to be linked with the District Record Bureau, and consequently, to SCRB and NCRB, as the case may be. It is said that in some toll gates, CC TVs

are installed. The same may be made compulsory in all toll gates. The details collected at the toll gates may be linked to the Police Server, regularly.

41. Often it is reported that children from Southern districts are sent to State of Kerala, Madhya Pradesh, Orissa and Rajasthan by middlemen/brokers, so that they could be engaged in some small jobs/petty shops, manufacturing snacks/sales. In one of the Habeas Corpus Petition, two minor children were secured from the State of Kerala and they submitted that many children are working in the area, from where they were secured. Therefore, in that case, we directed the Investigating Officer to enquire into the matter and collect all the details from the alleged middlemen and submit the same to the Commissioner of Police, Madurai City, Madurai. He is directed to forward the details to the Head of the Department.

42. Government Hospitals be directed to take photographs of the unclaimed/unidentified bodies, with visible identification marks and a detailed database be maintained. The name and particulars of the Doctor, who conducted the autopsy, the details of the police officer, who made the request for Autopsy, crime numbers registered on the file of the respective police stations, be maintained.

43. The said data base, be linked with the police server. Services of Friends of Police and Youth Brigade, be utilised to trace out the missing persons.

44. Education Department not only provides education, it inculcates discipline and moulds the children to lead a proper life. In some private higher educational institutions, strict discipline is maintained not to use mobile phones. Nowadays, it is not uncommon that children below the age of 18 years are also using mobile phones. Usage of mobile phones in schools and colleges be restricted/prohibited. Slide shows and other visual programmes be conducted in the schools/colleges on the aspect of vulnerability of crimes, relating to children, particularly, female children.

Directorates of School and Collegiate Education, may issue appropriate instructions to the Schools/Colleges that such programmes should be conducted atleast once in a month. Educational authorities to ensure strict compliance with the instructions.

45. Government recognized NGOs., be involved in explaining the effects of certain acts, affecting culture, tradition and values. State Social Defence Department, particularly, women and children department, be directed to work, in coordination with the Education Department for conducting programmes. Newspapers, conduct programmes and publish materials, during examination. They may also be involved to conduct programmes in the School, relating to crime.

46. We place on record our appreciation to Mr.Sanjai Mathur, IPS, Commissioner of Police, Madurai City, Madurai and Dr.C.Ramasubramanian, MD.DPM., State Nodal Officer, Mental and Health Programme, Tamil Nadu, who have given their valuable suggestions for proper investigation of the crimes relating to missing persons.

47. We have issued the above directions, with a fond hope and expectation that the Secretaries to the Government, Home, Health, Education and Transport Departments and the Heads of the Departments, viz., the Director General of Police, State Transport Commissioners, Directorates of School/Collegiate Education and such other state authorities, would issue appropriate directions, taking into consideration the public interest involved, in rendering their assistance, to the Police, investigating not only in crimes, but also in prevention.”

2. On 23.02.2015, in M.P.No.1 of 2015, this Court has impleaded, The Secretary, Ministry of Home Affairs, North Block, New Delhi; The Secretary, Ministry of Child and Women Development,

Shastri Bhavan, Dr.Rajendra Prasad Road, New Delhi; and The Secretary, Ministry of Communication and Information Technology Electronics, Niketan, 6, CGO Complex, Lodhi Road, New Delhi, as respondents 4 to 6.

3. On the basis of the materials contained in the typed of papers, filed by the Government of Tamil Nadu, Mr.A.N.Thambidurai, learned Additional Public Prosecutor, submitted that almost all the directions contained in the abovesaid orders, have been complied with.

4. We have perused the materials.

5. Learned Additional Public Prosecutor, High Court, Madras, further submitted that except in Chennai District, in all other Districts, in the State, publication has been effected, in Tamil Newspapers, about the existence of the Tamil Nadu Police Website, wherein, the details of the missing persons/unidentified bodies, can be viewed by the general public and that they can give information to the Police. He also added that the details of the website, with the phone numbers, have been published in the news papers.

6. Learned Additional Public Prosecutor, further submitted that insofar as Chennai District is concerned, necessary paper publication would be effected, by 23.03.2015. On the aspect of exploring the possibility of uploading the details (i.e., missing of persons and unidentified dead bodies) in both English and Tamil (Tamil Nadu Police Website and Crime and Criminal Tracking Network Systems Website), the learned Additional Public Prosecutor, by inviting the attention of this Court to the letter, dated 06.03.2015, of the Director General of Police, State of Tamil Nadu, addressed to the Additional Director General of Police, State Crime Records Bureau, Chennai, learned Additional Public Prosecutor, further submitted that

on the abovesaid aspect, a meeting is convened today and that he would revert back.

7. Mr.Basker, Superintendent of Police/Assistant Inspector General of Police, Chennai, who is present in the Court, submitted that uploading the details in Tamil, is feasible and National Informatics Centre, Tamil Nadu, Chennai, has also endorsed the same.

8. Inviting the attention of this Court to the communication, dated 3rd March, 2015 of the Under Secretary, Ministry of Women and Child Development, Government of India, New Delhi, Mr.G.Rajagopalan, learned Additional Solicitor General of India, submitted that the Ministry has already formed a National Portal, under the project name, "Track Child" under the Integrated Child Protection Scheme (ICPS), and based on the judgment of the Supreme Court in Writ Petition (Civil) No.75 of 2012, dated 10.05.2013 [**Bachpan Bachao Andolan v. Union of India**], wherein guidelines have been issued, Ministry for Women and Child Development, New Delhi, has taken steps for effective computerized network, between the Central Project Support Union (CPSU), State Child Protection Society/Units, District Child Protection Units (DCPU), Child Care Instructions (CCIs), all Police Stations, Chief Welfare Committee Members (CWCs) and all Juvenile Justice Board Members (JJBs), etc., so as to facilitate quick and early restoration of the missing children to their families. He also submitted that the website link should also be made known to the public at large. He further submitted that Track Child Nodal Officers have been appointed in States/Union Territories.

9. Learned Additional Solicitor General of India, also submitted that Ministry of Women and Child Development, New Delhi, has also developed a computerized network, ie., Track Child and

accordingly, the Hon'ble Supreme Court was apprised by the National Legal Services Authority (NALSA).

10. Learned Additional Solicitor General of India, submitted that in order to have AN effective co-ordination between the States/Union Territories and Investigating Agencies and various other bodies, across the Country, in the matter of investigation of missing children, unclaimed/unidentified bodies, etc., all the directions contained in H.C.P.(MD)No.1270 of 2013 and 34 and 1095 of 2014, dated 25.09.2014, would be implemented by respondents 4 to 6, viz., The Secretary, Ministry of Home Affairs, North Block, New Delhi; The Secretary, Ministry of Child and Women Development, Shastri Bhavan, Dr.Rajendra Prasad Road, New Delhi; and The Secretary, Ministry of Communication and Information Technology Electronics, Niketan, 6, CGO Complex, Lodhi Road, New Delhi, in letter and spirit.

11. By placing on record, the submission of the learned Additional Solicitor General of India, respondents 4 to 6 are directed to implement the directions contained in H.C.P.(MD)No.1270 of 2013 and 34 and 1095 of 2014, dated 25.09.2014.

12. Official respondents, both State and Central, are directed to submit the respective compliance report, with the supporting documents. Post on 01.07.2014."

19. Considering the safety of the children and moreso the affiliation bye laws of CBSE, that CBSE schools should comply with all the measures stated supra, we are of the view that the State Government have to consider issuing necessary guidelines in the matter of providing CC TV and GPS in education institution buses.

20. In this context, we also observe that right to education means, right to health & hygiene, drinking water, fire safety, building safety and transport precautions in the school, as well. It also includes adequate facilities for providing recreation, physical education, conduct of various activities and programmes for the cultural and moral development of children.

21. Taking note of the above, installation of CCTV with GPS in the educational institutions' buses owned or buses hired by the schools, for transporting children, has to be taken up by the Secretary to the Government, School Education Department, Government of Tamil Nadu, we are of the view that he is a necessary and proper party to answer the issue. Hence, in exercise of powers under Article 226 of the Constitution of India, we deem it fit to suo motu implead the Secretary to the Government, School Education Department, Government of Tamil Nadu, as party respondent in this writ petition. Accordingly, Secretary to the Government, School Education Department, Government of Tamil Nadu, Chennai, is impleaded as Respondent No.5 in the instant writ petition. Registry is directed to carryout necessary amendments, wherever required.

22. Secretary to the Government, School Education Department, Government of Tamil Nadu, Chennai, now impleaded and Director of School

Education, Chennai, 1st respondent, to respond by 22.07.2019.

23. This Court places its appreciation for the assistance rendered by Mr.G.Nagarajan, learned standing counsel for CBSE.

24. Post on 22.07.2019.

[S.M.K.,J.] [S.P., J.]
11.07.2019

Note to office:
Issue order copy by 12.07.2019
ars/dm



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S.MANIKUMAR, J.,
AND
SUBRAMONIUM PRASAD, J.,

ars/dm



WP No.14287 of 2019
and WMP No.14371 of 2019

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11.07.2019