

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Writ Contempt No. 371/2016

Ravi Lodha s/o late Shri Mahendra Lodha, aged about 50 years,
by caste Lodha (Oswal), r/o G-145, Shastri Nagar, Jodhpur (Raj.)

----Petitioner

Versus

Shri C.S. Rajan, I.A.S. and Ors.

----Respondents



For Petitioner(s) : Mr. Ashok Chhangani
For Respondent(s) : Mr. Sunil Beniwal, AAG with
Mr. Utkarsh Singh
Mr. Rajesh Panwar with Mr. Ayush Ga
hlot for Municipal Board & JNVU
Mr. Sanjeet Purohit, ASG and
Mr. B.S. Sandhu
Mr. Ankur Mathur for NHAJ

**HON'BLE MR. JUSTICE SANGEET LODHA
HON'BLE MR. JUSTICE VINIT KUMAR MATHUR**

Order

Per Hon'ble Mr. Sangeet Lodha, J.

4th November, 2019

1. This contempt petition has been filed by the petitioner alleging willful disobedience of the directions issued by this Court vide order dated 19.2.07 passed in D.B.Civil Writ Petition No. 6073/1993, whereby, following directions were issued by the Court to the State of Rajasthan, Jodhpur Development Authority (JDA), Municipal Corporation, Jodhpur (MC, Jodhpur) and Indian Railways:

“(i) The Jodhpur City and the areas contiguous have progressively developed and populated. In the orderly and

rapid development of the area, several Government departments, local authorities and other Organizations are not only required to be engaged but there is a necessity to bring the coordination among them. Thus, it would be expedient to consider to set up an authority in the line of Jaipur Development Authority i.e. to say **Jodhpur Development Authority;**

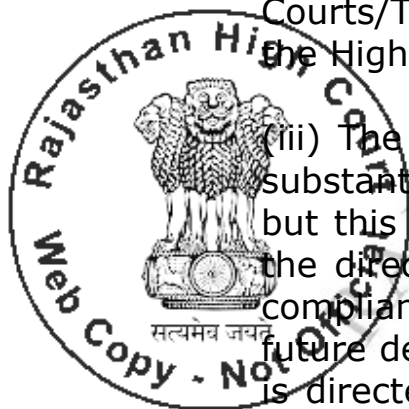
(ii) The State Government is directed to ensure the compliance of the order dated 21.11.2000 passed by this Court within a time schedule as to shifting of public buildings including the High Court and other Courts/Tribunals in order to reduce the congestion from the High Court Road;

(iii) The effective directions and compliance thereon, has substantially reduced the traffic congestion from the City but this should not be taken as the end of the matter, as the directions given by this Court from time to time and compliance thereon, are bound to have effect on the future development of the City changing its complexion. It is directed that the orders given by this Court from time to time be enforced effectively;

(iv) The bypass which was promised to be made operational by the end of December, 2006, could not be completed for the reasons given. The time for the same is extended upto September, 2007. We hope and trust that the said job shall be completed during the stipulated period i.e. September, 2007;

(v) In the matter of laying down the roads and maintenance inside the City by different agencies viz; National Highway Authorities, P.W.D., U.I.T. and the Municipal Corporation, substantial work has been done. However, the complaint is that the roads laid down by the P.W.D. and the U.I.T. are qualitatively poor. We feel that little more is required to be done to improve the roads of the City of Jodhpur. The National Highway Authorities are directed to improve the conditions of the roads passing through the City. They should also work in coordination with the U.I.T. and the Municipal Corporation. An officer of the National Highway Authorities will regularly participate in the Traffic Management Committee meetings. We disapprove the obstructions created by the National Highway Authorities in the matter of providing parking. They must clearly understand that the work has been undertaken under the orders of this Court. Similarly, the U.I.T., the Municipal Corporation and the P.W.D. should take more effective steps to improve the road conditions of the City of Jodhpur;

(vi) All the authorities are directed to punctually and faithfully comply with the orders of this Court as to removing encroachments from the public places. The anti-



encroachment and demolition programmes should be taken as a regular course and not as a drive only. Obstructions on roads in the form of poles, transformers, hoardings, cabins, installed some sort of structure to show place of worship of any religion, trees be shifted or removed. In case of removal of trees, same number of trees be planted at appropriate place. Encroachments on roads, particularly Pal Road, as indicated above, be removed. In case of re-encroachment, matters be reported to the Court by way of initiation of contempt proceedings;

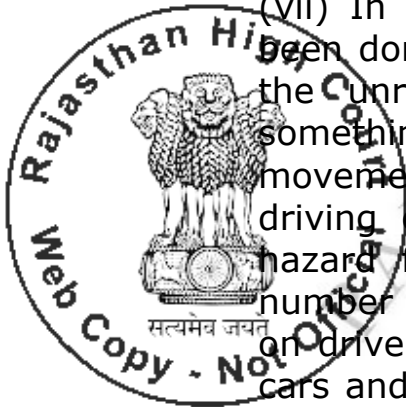
(vii) In the matter of traffic control, effective work has been done. The traffic police has succeeded in controlling the unruly traffic in the City of Jodhpur. However, something more seriously needs to be done to check the movement of unruly City Buses. Unfortunately, the rash driving of the drivers of the Luxury Cars has become hazard for the innocent people thereby increasing the number of accidents. The exemplary penalties be inflicted on drivers of the City Buses driving rashly and so as the cars and motorcycles. The careless driving using mobiles, should be checked and exemplary penalties be imposed;

(viii) In spite of repeated directions for proper parking, the private Buses are being seen parked in busy areas in the haphazard manner. These buses are mega buses and even double decker which occupy substantial area of the land. Thus, we direct the concerned authorities to earmark the land within a period of six weeks, where the Stand for private buses can be provided. In this regard, the concerned authorities should take into account the report of the Lawyers Core Group;

(ix) The authorities concerned should take effective steps that within a period of one year, the public vehicles use C.N.G. Instead of petrol and diesel;

(x) It is reported that there are large number of small scale industries emitting smoke and all sorts of pollutants inside the City of Jodhpur. It is also reported that they are in operation without licence. Effective steps be taken to shift them outside the City within a period of six months;

(xi) Considering the expansion of the Housing Board Scheme and other Schemes and the increase of traffic manifold, it is directed that effective steps be taken for widening the road proceeding from Akhaliya Choraya towards Chopasni Road. Similarly, the road proceeding from Residency Road to Boranada be further widened. The obstructions in the form of trees, electric poles etc. be removed. While removing the trees, equal number of trees be planted at appropriate places;



(xii) A study be made and if possible, the depot of R.S.R.T.C. Presently situated near the Railway Overbridge adjacent to the Vegetable & Fruit Market be shifted to elsewhere, as it has become a hazard and accident prone;

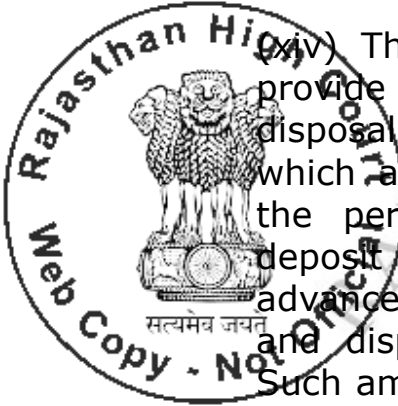
(xiii) The State Government is directed to make the Solid Waste Management practice as effective for improving the quality of life in urban areas. The Municipal Corporation is directed to properly arrange and supervise the work of Street Sweepers and Labour force employed in collection, transportation, processing and disposal of waste effectively;

(xiv) The Municipal Corporation, Jodhpur is directed to provide provision for collection, transportation and disposal of construction waste and debris without delay for which appropriate byelaws be prepared to bound down the person, likely to produce construction waste, to deposit with the Local Bodies an approximate amount in advance at the rates as may be prescribed for removal and disposal of construction waste from his premises. Such amount may be deposited at the time when building permission is sought and in case, where such permission is not required, at any time before such waste is produced. Similarly, provision be made for collection of waste and prescribe the rates for collection of waste from Marriage Halls, Community Halls and other functions. This can be multiplied by prescribing the rates for collection of bio-medical waste, hotel and restaurant waste and vegetable, fruit, meat markets waste, garden waste etc;

(xv) The direction given with respect to deputing the Mobile Magistrate and providing him a vehicle is extended upto 30th May, 2007. The decision with respect to further continuance shall be taken by the High Court and the State Government at the administrative level;

(xvi) The Railway Administration in compliance with the orders of this Court and otherwise as well, has taken effective steps in reducing the congestion outside the Railway Station and providing smooth traffic. However, much is still required to be done. The parking of the cars and two wheelers outside the Railway Station is still found to be unruly. The Railway Administration should take effective steps in that regard; and

(xvii) There shall be complete ban on immersion of idols and other materials during festivals in any of the Water Reservoirs of the City, which results into contamination of water. The District Administration is directed to follow the directions given in this regard in a "public interest litigation" being D.B.Civil Writ Petition No.4938/2003 "Poonam Chand Solanki vs. State of Rajasthan";



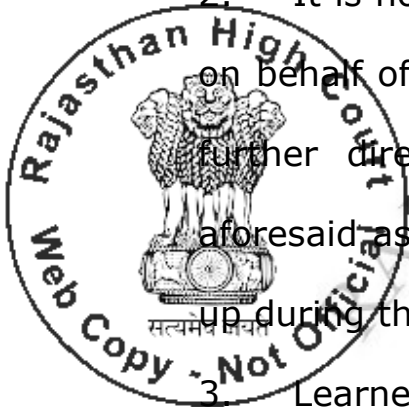
(xviii) Inadequate taxation and ineffective management, both, renders the municipal services far from being satisfactory. Thus, the State Government should seriously consider and improve the finance of the Urban Local Bodies, particularly the Municipal Corporation, Jodhpur.

(xix) Last but not the least, we say that any direction or effort by this Court or any other authority, would be of no worth, if the citizens do not actively participate to make the traffic management or other management, effective."

2. It is noticed that after perusal of the compliance reports filed on behalf of the respondents from time to time, this Court issued further directions for compliance of the directions issued as aforesaid as also in respect of the issues relating thereto cropped up during the pendency of the contempt petition.

3. Learned counsel appearing for the petitioner has filed written submissions pointing out non-compliance of the directions issued by this Court during the pendency of the writ petition as also the final directions issued vide order dated 19.2.17. According to the petitioner, various directions issued by this Court in the said writ petition vide orders dated 20.11.2000, 20.12.2000, 2.3.01, 13.4.01, 15.4.02, 25.11.02, 29.5.03, 10.11.04 and 19.2.07 have not been complied with so far in letter and spirit. That apart, the orders passed by this Court in the present contempt petition on 5.7.17, 17.7.17, 28.7.17, 4.8.17, 21.8.17, 24.8.17, 12.9.17, 18.9.17, 21.9.17, 24.10.17, 4.1.18, 8.2.18 and 16.8.18 have also not been complied with. The details of non-compliance are set out by the petitioner in the written submissions filed.

4. The respondents MC, Jodhpur, JDA and the Commissioner, Police, Jodhpur have filed reply to the written submissions made on behalf of the petitioner. That apart, additional affidavits have been filed on behalf of the National Highway Authority of India (NHAI) regarding status of four laning of Jodhpur Ring Road



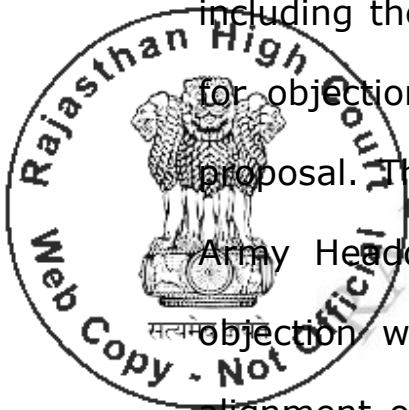
Section-I, from Dangiawas (km 96.995 of NH-112) to Jajiwai (km 283.500 of NH-65 Nagaur road). An additional affidavit has also been filed on behalf of the Union of India in respect of the proposal with regard to diversion of 7.534 hectare forest land in favour of NHAI, PIU, Jodhpur for the upgradation of Jodhpur Ring Road Section-I, Dangiawas to Nagaur Road, Jodhpur.

5. On 23.9.19, 25.9.19, 26.9.19, 27.9.19 and 1.10.19, the arguments of the learned counsel for the parties were heard in respect of the non compliance of some of the directions issued as aforesaid as also on application (No.3/19) preferred by the NHAI seeking permission to construct the Ring Road as per its original alignment falling within Chainage (Ch) 74+600 to 76+000 which is being objected by Army Headquarter, Jodhpur on account of notification dated 3.1.07 issued by the Ministry of Defence in exercise of the powers conferred by Section 3 of the Works of Defence Act, 1903 putting restriction on construction or erection of further buildings and other obstructions in future on all the land falling within the distance of 900 meters from the outer perimeter wall of the works of defence namely, 669 Army Aviation Squadron (Reconnaissance and Observation) Base, Ralawas, Nagtalao at Village Karwad in Jodhpur District.

6. **APPLICATION NO.3/19**

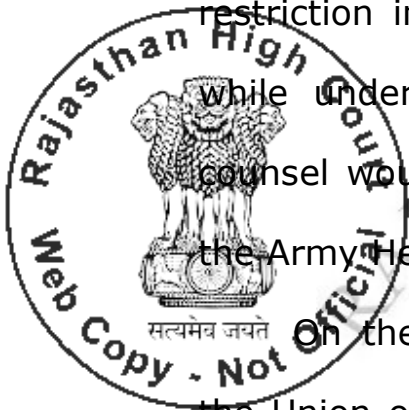
Mr. Ankur Mathur, learned counsel appearing for NHAI submitted that NHAI undertook the project of Jodhpur Ring Road Phase I & Phase II from Dangiawas to Nagaur Road via Shatabdi Circle, DPS, Badli and Keru in the length of 75 km. (Phase I) and Nagaur Road to Dangiawas in the length of 29 km. (Phase II). It was agreed that Jodhpur By-pass may be considered as National

Highway if the entire land required for construction of the Ring Road is provided free of cost by the State Government and accordingly, the land is being provided by the State Government to NHAI free of cost. At the time of preparation of detailed project review before initiation of the project of the Ring Road, NHAI communicated to all the concerned departments and local officers including the Department of Defence through Army Headquarters for objections, if any or the suggestions for amendment in the proposal. The officers of the NHAI also visited the office of the Army Headquarters, Jodhpur and sent reminders, however, no objection was raised by them. Accordingly, NHAI finalised the alignment of the project based on report of DPR Consultant and thereafter, proceeded to issue notification expressing intention to acquire the land under Section 3A of the National Highways Act, 1956 (for short "the Act of 1956"). The Army Headquarter, Jodhpur after completion of acquisition proceedings, at the time of publication of notification under Section 3D of the Act of 1956, raised an objection with regard to the construction of the road as proposed. The objection was raised on the strength of notification dated 3.1.07 referred as above. It is submitted that at the disputed site, highway constructed by Public Works Department already exists and the traffic passes through the road on regular basis without any objection. The NHAI is only undertaking widening of the road and at some places the road proposed to be constructed is even away from existing road. It is submitted that no building or flyover etc. is proposed to be constructed and thus, keeping in view the fact that the road constructed by the PWD is already operational, there is absolutely no reason why the construction of the proposed road should be objected by the Army



Headquarters. It is submitted that in view of the major portion of the road already constructed, re-alignment is not possible. Drawing the attention of the court to the notification dated 3.1.07, learned counsel submitted that the said notification only restricts construction or erection of the further buildings and other obstructions. The construction of the road does not fall within the restriction imposed moreso when, the road is being constructed while undertaking the widening of the existing road. Learned counsel would submit that the objections sought to be raised by the Army Headquarters are not justified.

On the other hand, Mr. B.S.Sandhu, counsel appearing for the Union of India submitted that the restriction imposed by the impugned notification is wide enough which includes even the construction of the road, which is likely to obstruct the work of defence as specified. Learned counsel submitted that keeping in view the notification dated 3.1.07, the Army Headquarter at Jodhpur is not empowered to take a decision in the matter and give consent for the proposed construction of the road. If the NHAI has any grievance, there is no reason why the matter cannot be taken up by the Ministry of Road, Transport & Highways with the Ministry of Defence to resolve the dispute. Learned counsel submitted that on a dispute having been arisen regarding construction of the flyover on highway being constructed by PWD keeping in view D.O. dated 7.8.14 issued by the Department of Legal Affairs, Ministry of Law & Justice, Government of India, the Ministry of Defence approached concerned ministry for the resolution of the dispute which was subject matter of S.B.C.Writ Petition No. 3927/17 and the dispute was resolved amicably and thus, it would be appropriate that the concerned authority of



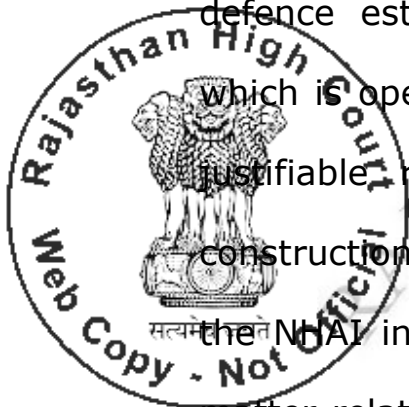
Ministry of Highways deliberates upon the issue raised with the authority of Ministry of Defence so as to find out acceptable solution thereof.

Indisputably, the proposed Ring Road overlaps the existing highway at some places and the remaining part of the road proposed to be constructed is at the greater distance from the defence establishment in comparison to the existing highway, which is operational as on the date and thus, we do not find any justifiable reason for the Ministry of Defence objecting the construction of the Ring Road, a prestigious project undertaken by the NHAI in the larger public interest. Be that as it may, as the matter relates to the defence, we would not like to pronounce on the dispute raised at this stage inasmuch as, we also feel that the dispute if any, between two departments of the Government of India can always be settled amicably after due deliberations.

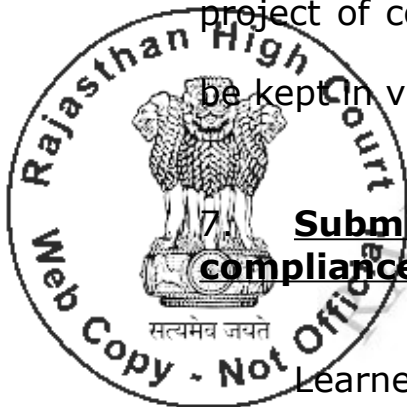
It is noticed that pursuant to the directions of the Supreme Court in *O.N.G.C. vs. Chief Commissioner, Collector of Central Excise*: (1995) Suppl. 4 SCC 541, the Ministry of Law and Justice has already issued a circular dated 7.8.14, whereby it is provided that the dispute between Government Departments and Public Sector Undertakings should not go to the courts without clearance of High Powered Committee constituted to resolve the dispute.

Learned counsel appearing for the parties fairly submitted that on the facts and in the circumstances of the case, they would prefer that the dispute sought to be raised is amicably settled after due deliberations by the Department of Defence and Department of Road Transport & Highways.

In this view of the matter, the application preferred is disposed of with the directions to the Secretary, Department of



Defence and Secretary, Department of Road Transport & Highways to resolve the controversy arisen between the two Departments of the Central Government amicably within a period of two weeks from the receipt of certified copy of this order. Needless to say that while taking a decision in the matter, the larger public interest involved in National Highway Authority undertaking the prestigious project of construction of Ring Road for the City of Jodhpur, shall be kept in view.



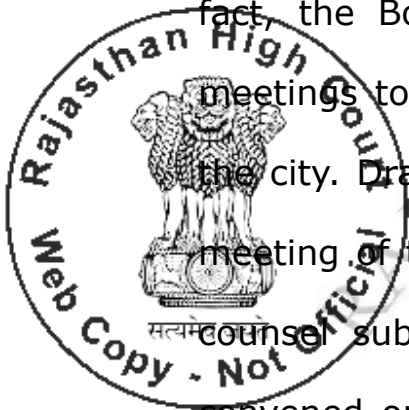
Submission on behalf of the petitioner regarding non-compliance of various directions issued by this Court

Learned counsel submitted that the specific directions were issued to the Municipal Corporation, Jodhpur for taking action against the owners of residential and commercial complexes who are using parking places for shops/godowns and other commercial activities, however, no stern action has been taken by the Municipal Corporation against them till this date. The buildings seized to enforce the norms of parking have been released without ensuring the restoration of parking places and consequently, on account of parking of the vehicles anywhere and everywhere, the traffic problem in the city stands aggravated. Learned counsel submitted that even the directions issued by this Court subsequently in Gulab Kothari Vs. State of Rajasthan : D.B. Civil Writ Petition No.1554/04, vide order dated 12.1.17, have not been complied with.

Learned counsel submitted that at the various congested places in the city, the bus stand are being operated for private buses ignoring the categorical directions issued by this court in this regard. It is submitted that Jodhpur Traffic Control Board

constituted under the provisions of Section 13 of Jodhpur Development Authority Act, 2009 (for short "JDA Act"), has miserably failed to discharge its duties specified under sub-section (3) of Section 13 of the JDA Act. Learned counsel submitted that no Master Plan for traffic control in Jodhpur City is prepared, which is intended to be implemented in phase manner. As a matter of fact, the Board constituted as aforesaid is not holding regular meetings to chalk out the plan for haphazard traffic operating in the city. Drawing the attention of the court to the minutes of the meeting of the Board placed on record on behalf of JDA, learned counsel submitted that after February, 2019, the meeting was convened on 4th September, 2019 when the matter regarding the issue of traffic congestion in the city was taken up for consideration by this court, which only reflects apathetic attitude of the authorities towards the duties assigned to them under the Statute. Learned counsel submitted that there is great paucity of the officers and other staff in the Department of Traffic on account of the regular recruitment not being made against the existing vacancies in accordance with law. Learned counsel submitted that the home guards are being deployed to control the traffic without extending them proper training for control of traffic. It is submitted that the parking zones have not been developed as directed by this court vide order dated 20.12.2000.

Learned counsel submitted that defying the undertaking given before this court, the JDA has not commenced the work for widening of the road from Mahendra Nath Arora Circle towards the University terminating at Pili Tanki, Bhagat Ki Kothi as proposed, despite the consent letter being issued by the JNV University. It is submitted that no steps whatsoever have been taken by the JDA



to commence the work of widening of service road in both the sides of the flyover constructed passing through Riktiya Bheruji Chauraha towards Pali Road.

Learned counsel submitted that the sewerage system in the city has failed and even the major roads in the city are in pathetic condition, which includes potholes, sinkholes, uneven surfaces, cracks, broken concrete etc. That apart, the encroachment made by the unscrupulous persons on the land forming part of footpath and public way have not been removed rather, the encroachments on footpath and public way are increasing in the city unabatedly, apparently, with the tacit support of the local authorities.



8. Submissions on behalf of the State Government and JDA regarding compliance of various directions

Removal of Encroachments on footpath and public way/Repair of the roads

Learned AAG submits that encroachment removal drive is being operated by the JDA on regular basis which is proposed to be intensified. Learned AAG submitted that the encroachments made on footpath and public way shall be identified and demolition drive shall be undertaken expeditiously in accordance with law. Learned AAG submitted that the encroachments shall be removed in time bound manner.

It is submitted that all the temporary unauthorized occupations/encroachments situated on Pali Road in the width of 150 ft. (75ft. on each side) from Shatabadi Circle to Jhalamand Circle have been removed and with regard to permanent structures raised, notices have already been issued to the encroachers and the encroachments made shall be removed

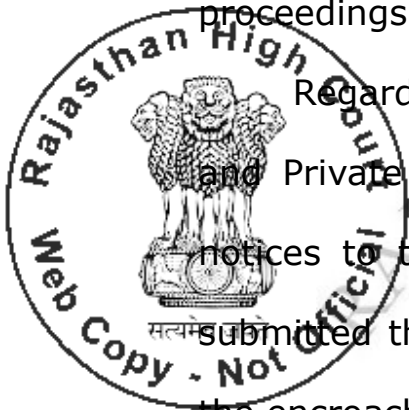
expeditiously on or before 5.10.19. It is submitted that on Pali Road beyond Shatabadi Circle, the road width is 150 ft. and beyond 75 ft. from the centre of the road on both the sides, there are khatedari lands of the agriculturists who have raised construction of boundary wall. It is submitted that for widening the road from Shatabadi Circle to Pali, the land acquisition proceedings are required to be initiated by the NHAI/PWD.

Regarding removal of the encroachments in Transport Nagar and Private Bus Stand, it is submitted that the JDA has issued notices to the encroachers to remove the encroachments. It is submitted that the encroachers shall be heard on 3.10.19 and all the encroachments shall be removed on or before 5.10.19.

Learned AAG submitted that the JDA has already taken the effective steps to improve the condition of city roads. It is submitted that maintenance and strengthening of the roads is ongoing process, which is taken care of by the local authorities on regular basis.

Action taken by Traffic Control Board as per the provisions of JDA Act

Learned AAG submitted that the meetings of the Traffic Control Board of Jodhpur Metropolitan is held as and when required and recently in the meetings held on 4.9.19, several issues pertaining to traffic conditions of the city were taken up including expansion of certain routes towards New High Court Building under public transport system and certain zones surrounding New High Court Building have been declared as 'No Vending Zones'.



Laying of road from MN Arora Circle to Pili Tanki

Learned AAG submitted that on the road from MN Arora Circle to Pili Tanki, there exists three electricity lines; one 11 KV Line, one LT line and one 33000 volts line installed by JVVNL. It is submitted that to facilitate the construction of the road as proposed, technical sanction has already been issued by the JVVNL on 27.9.19 for shifting of 11 KV line and LT line. For shifting of 33000 volts line, which is dedicated supply line for Defence under the control of DISCOM, the request has already been made by the JDA to the DISCOM and Defence, however, the response is still awaited. Learned AAG submitted that the project of completion of three laning of the said road and construction of culvert for the University Nala, is scheduled to be completed within a period of six months subject to shifting of utilities such as, electricity poles, electricity lines etc.

Development of Private Bus Stand

Learned AAG submitted that the issuance of the financial and administrative sanction for development of four private bus stand which have already been notified, is under process, which shall be completed within a period of six months. It is submitted that the contract carriage buses are only allowed to ply and halt in the city after 10 PM in the night and before 10 PM the said contract carriages are parked at their respective private yards. It is submitted that if any contract carriages are found plying in the day time, the suitable action shall be taken by the traffic police. Regarding the paucity of the traffic police personnel, learned counsel submitted that 500 police personnel (constables) are

under training and after completion of the training, about 100 constables shall be deployed for regular operation of the traffic. It is submitted that besides the police personnel, 175 home guards are also deployed to assist the traffic police. Regarding training to the Home Guards, learned AAG fairly submitted that no such training is given to them.



9. SUBMISSIONS ON BEHALF OF MUNICIPAL CORPORATION, JODHPUR

Mr. Rajesh Panwar, learned counsel appearing for the Municipal Corporation, Jodhpur submitted that number of buildings were seized wherein parking spaces were being used for residential or commercial purposes, however, some of the buildings were released from seizure pursuant to order passed by the State Government. On being asked by the Court about the present status of the buildings seized and the utilization of the parking spaces for other purposes, learned counsel sought time to complete his instructions. Regarding the removal of the encroachments, learned counsel submitted that the encroachments on footpath and public way are being removed by the Municipal Corporation on regular basis in accordance with law. Learned counsel sought time to make submissions regarding widening of the service road in both the side of the flyover passing through Riktya Bheruji Chauraha towards Pali.

10. We have considered the submissions of the learned counsel appearing for the parties and perused the material on record.

Considerations and conclusions

11. Restoration of parking places in the residential and commercial complexes

Indisputably, specific directions were issued by this Court to take action against the owners of residential and commercial complexes, who have put the parking places in the buildings to other use. The MC, Jodhpur was further directed to ensure that no construction of commercial or residential premises is raised on the main roads or sub-lanes in the city of Jodhpur irrespective of earlier permission of MC, Jodhpur or order of any court (except HC and SC) unless such commercial or residential premises has a provision of adequate parking facility.

As per MC, Jodhpur number of buildings wherein parking spaces were being used for residential or commercial purposes were seized, however, some of the buildings were released from seizure pursuant to order passed by the Court. It is not clarified as to whether the parking spaces in the buildings put to other use have been restored or not.

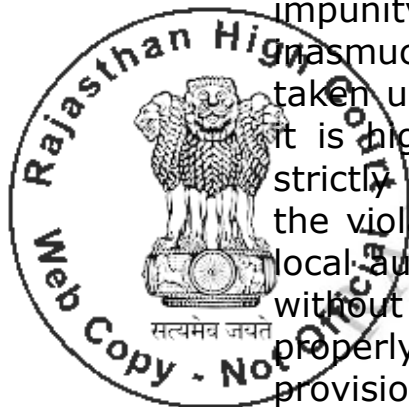
It is pertinent to note that in Gulab Kothari's case (supra), this Court after due consideration of various provisions of Rajasthan Municipalities Act, 2009 and other statutes observed :

"151. It is really unfortunate that at the time of sanction of the plan, the provision is made for adequate parking spaces as prescribed by the State Government or the Local Authority concerned under the Building By-laws, but over the years, a tendency is developing among the developers to delete or reduce the parking spaces while undertaking constructions or the parking spaces provided are being diverted to other uses. It is really strange that ignoring stringent statutory provisions providing for compulsory parking space in every building constructed, the unscrupulous developers with the

connivance of the officials of local authorities are violating the parking space norms with impunity, which is creating a great traffic congestion in all major cities of the State.

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156. We are constrained to observe that though the legislature has enacted the law for ensuring the provisions for adequate parking space in every building constructed within the municipal area, the enforcement thereof has been extremely poor and the norms laid down are being violated by the developers with impunity, which is resulting in chaotic situation as much as, major area of roads in the major cities are taken up just for parking of the vehicles and therefore, it is high time that the law enacted in this regard is strictly enforced and besides the stern action against the violators, the responsibility of the erring officials of local authorities who permit such buildings to come up without adequate provision for parking spaces, is also properly fixed. Needless to say that while enforcing the provisions incorporated as aforesaid to ensure adequate parking spaces in the buildings already constructed, the local authorities are under an obligation to take all appropriate measures in accordance with law to restore the position of the parking spaces as per the plan sanctioned, put to any other use."



The Court issued the directions in the following terms :

"(xxiii) The norms prescribed for compulsory parking in the commercial buildings and other than commercial buildings constructed within the municipal area of the various cities shall be enforced strictly and the buildings shall not be permitted to commence its functioning unless the completion certificate is issued by the authority concerned after being satisfied about compliance of the provisions incorporated under the relevant statutes for compulsory parking. In the existing buildings where the parking spaces have not been provided as per the sanctioned plan or which have been converted to other use, shall be restored within the time frame to be notified by the local authority, failing which such buildings shall be sealed and appropriate penal action shall be taken against the defaulters in accordance with law."

Nothing is brought on record suggesting that the directions issued by this court as aforesaid have been complied with. There is no explanation set out in the written submissions filed, as to why the buildings which were seized on account of non restoration of the parking spaces, were released by the local authorities/State Government without restoration of the parking spaces as directed by this court. Thus, the respondents are apparently guilty of wilful disobedience of the directions issued by this court from time to time.



12. Removal of Encroachments on footpath and public way/Repairs of the roads

We are constrained to observe that the encroachment on footpath and pavements in the city of Jodhpur is massive and rampant, which is causing great inconvenience to the pedestrians who are forced to walk on the heavy traffic road. The installation of cabins unauthorisedly on the footpath is flourishing in the city before the very eyes of the authorities. The parking on footpath is prohibited but it continues unabated. Even various temples have come up on footpath apparently with the tacit support of local authorities. It is high time that the local authorities should take stern action to ensure that all footpaths and pavements are cleared for exclusive use by the pedestrians.

This court take judicial notice of the fact that dilapidated condition of most of the city roads is hampering smooth flow of vehicular movement and providing bumpy ride to the commuters. The potholes are real menace which cause damage to vehicle and also lead to multiplicity of medical problems. The

Local Authorities and the State need to take the maintenance work of roads and footpaths immediately in time bound manner.

13. Laying of road from MN Arora Circle to Pili Tanki

According to the learned AAG the project of completion of three laning of the road from MN Arora Circle to Pili Tanki is scheduled to be completed within a period of six months subject to shifting of utilities such as electric poles, electric lines etc. Looking at the importance of the project, the JVVNL and the DISCOM need to be directed to ensure that the work of shifting of the electric poles and the lines is completed with utmost expedition. The Department of Defence is also expected to take appropriate measures to facilitate the shifting of the electric poles and lines so that the project undertaken by the JDA is not further delayed.

14. Operation of Bus Stand at the various places of the city unauthorisedly

It is noticed that on 19.2.07 vide direction No.(viii), this court while noticing the factum of non compliance of repeated directions issued from time to time for proper parking, observed that private buses are being parked in the busy areas of the city in haphazard manner and accordingly, directed concerned authorities to earmark the land within a period of six weeks where the stand for private buses can be provided.

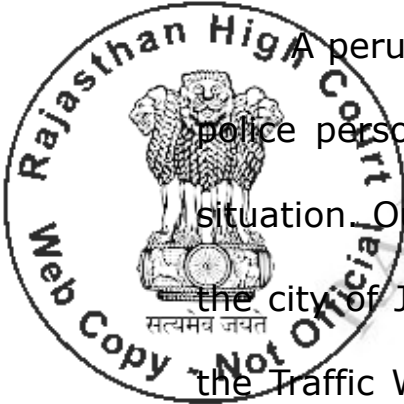
Indubitably, the operation of the bus stand/halting places cannot be permitted anywhere and everywhere in the city and the respondents are under an obligation to notify the bus stand/halting places for the private buses. The authorities are



under an obligation to ensure that the buses operating as contract carriages are not permitted to operate as stage carriages from the notified bus stand/halting stations. The development of the private bus stands already notified needs to be completed by the respondents within the time frame.

15. Deployment of traffic police personnel

A perusal of the details of sanctioned strength of the traffic police personnel and actual deployment reveals a very bizarre situation. Out of 701 different categories of posts sanctioned for the city of Jodhpur, only 250 persons are presently deployed in the Traffic Wing of the Commissionerate, Jodhpur. Besides, the vacancies in the cadre of Assistant Assistant Commissioner, Inspector and Sub Inspector, 17 posts of Head Constable and 413 posts of Constable are lying vacant. As per the stand taken by the respondents, only 100 constables are expected to be posted in traffic branch of Commissionerate, Jodhpur, after completion of the training within the short span of time. It is categorically admitted before this court that the Homeguards deployed are not trained to discharge the duties of the traffic police and thus, till the vacancies are filled in, it would be appropriate that the Homeguards posted are extended basic training for regulating the traffic. The respondents must take the appropriate steps to fill up all the vacancies in the cadre with utmost expedition.



16. In view of the discussion above, we issue following further directions to the respondents:

(1) The norms prescribed for compulsory parking in the commercial buildings and other than commercial buildings constructed within the municipal area of the Jodhpur Metropolitan City shall be enforced strictly and the buildings constructed shall not be permitted to commence its functioning unless the completion certificate is issued by the authority concerned after being satisfied about compliance of the provisions incorporated under the relevant statutes for compulsory parking;

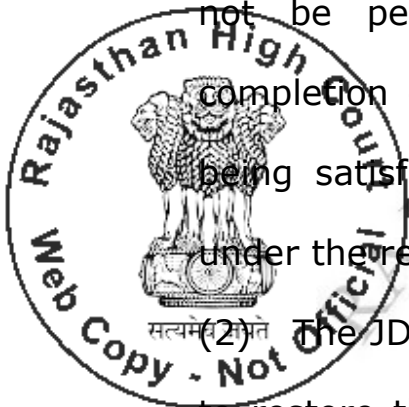
(2) The JDA, Jodhpur and MC, Jodhpur shall take effective steps to restore the parking places specified in the sanctioned plan of existing buildings, which are put to other use, within a period of two months;

(3) The Municipal Corporation shall publish a public notice in this regard in the daily newspaper having circulation in Jodhpur Metropolitan area within a period of one week, with the appeal to the building owners to restore the parking spaces as specified in the sanctioned plan within a period of two weeks from the date of publication of the notice;

(4) On the building owners failing in restoring the parking spaces within the stipulated time, the buildings of defaulter building owners shall be seized and appropriate penal action shall be taken against them in accordance with law;

(5) The building seized shall not be released until the parking space specified in the sanctioned plan is restored to its original use;

(6) The JDA, Jodhpur and MC, Jodhpur are directed to take all necessary measures to remove the encroachments made on the



footpath, pavements and public way, by way of putting stairs, ramps, cabins, hoardings or fencing etc. in Jodhpur city within a period of three months from the date of this order;

(7) The JDA, Jodhpur and MC, Jodhpur shall undertake the maintenance work of the city roads, pavements and footpaths, which are in dilapidated conditions forthwith and complete the same with utmost expedition, in any case, within a period of three months

(8) The Jodhpur Traffic Control Board is directed to prepare a Master Plan for traffic control in Jodhpur City and shall take the appropriate steps for modernizing the traffic control system within a period of three months;

(9) The traffic hazards and obstacles shall be removed expeditiously as mandated by sub-section (3) of Section 13 of the JDA Act;

(10) The Jodhpur Traffic Control Board shall ensure that the bus stand or halting stations are not operated in the city of Jodhpur anywhere and everywhere and the buses are operated only from the bus stand/halting stations duly notified;

(11) The Jodhpur Traffic Control Board, the traffic police and the transport authorities shall ensure that the buses operated by the private bus owners as contract carriages are not permitted to operate as stage carriages from any public places in the city or from bus stand/halting stations notified;

(12) The project of laying of three lanes road from MN Arora Circle to Pili Tanki shall be completed within a period of six months as projected by the JDA, Jodhpur. The authorities of JVVNL and DISCOM are directed to take immediate steps for shifting of the electric poles and lines on the proposed road and shall ensure that



the project is not delayed in any manner on account of delay in shifting process;

(13) The State Government is directed to fill up all the vacancies in the cadre of traffic police within a period of six months;

The directions issued shall be complied with by the respondents in the letter and spirit within the time specified. The

compliance report in respect of each of the directions issued shall be filed by the concerned authorities supported by an affidavit within the time frame specified for compliance of the respective directions issued. The lapse on the part of the respondents in complying with the directions shall be viewed seriously and dealt with sternly.

The copy of this order may be sent to the Managing Director, JVVNL and the Managing Director, DISCOM forthwith.

List the matter on 25.11.19, for consideration of the submissions regarding non compliance of the other directions issued.

(VINIT KUMAR MATHUR),J

(SANGEET LODHA),J

Aditya/