

CWP-PIL No. 78 of 2019 and connected matters

Court on its own motion vs The Chandigarh Administration and others

Present Ms. Reeta Kohli, Senior Advocate (Amicus Curiae) with
Mr. Balwinder Sangwan, Advocate.

Mr. I. P. S. Doabia, Additional Advocate General, Punjab.

Mr. Pawan Girdhar, Additional Advocate General, Haryana.

Mr. Varun Issar, Advocate, for Union of India.

Ms. Deepali Puri, Advocate, for Municipal Corporation,
Chandigarh.

Mr. Gautam Dutt, Additional Public Prosecutor
UT Chandigarh and
Mr. Pankaj Jain, Senior Standing Counsel with
Mr. Parminder Singh Kanwar, Additional Standing counsel
for UT Chandigarh.

CM No. 82-CWPIL/2019

Learned counsel for the applicant submits that the present application has become infructuous due to previous order.

Dismissed as infructuous.

Main case

On the oral application of Ms. Reeta Kohli, learned Amicus Curiae, we add Bharat Electronics Limited, Panchkula (in short 'BEL'), through its Managing Director as respondent. Registry is directed to make necessary addition in the paper book.

Notice be issued to the newly added respondent.

Affidavit of Dr. Ajay Kumar Singla, IAS, Secretary Transport, Chandigarh Administration (Nodal Officer) dated 3.1.2020, filed in the Court is taken on record.

Status report by way of affidavit of Shri Shashank Anand, IPS, Senior Superintendent of Police, Security and Traffic, Union Territory, Chandigarh dated 17.1.2020, filed in the Court is taken on record.

Learned counsel appearing on behalf of Union Territory, Chandigarh, has brought to the notice of the Court that new system with new software called the Integrated Control Command Centre (ICCC) would be deployed and the same would be executed by the newly added respondent, i.e. BEL. The time frame asked for in this affidavit is 18 months starting from 15th March. This cannot be acceded to taking into consideration the urgency in the matter. Accordingly, there shall be direction to the Union Territory, Chandigarh, to install cameras which are part of project ICCC within a period of four months starting from today, if necessary by holding parleys with the Managing Director of the newly added respondent.

We have also taken judicial notice of the conditions of the roads, including major roads in the City of Chandigarh as well as of tertiary roads connecting the major roads. There are pot holes in the roads. Every citizen has a fundamental right to use the roads to be maintained by the Municipal body/ Municipal Corporation and State agencies.

Mr. Pankaj Jain submitted at the bar that the re-carpeting of roads is under consideration.

Mr. Pankaj Jain has submitted that the work for re-carpeting of roads would commence immediately after the winter season is over. The winter season would be over by 15th February. Consequently, the Union Territory, Chandigarh is directed to re-carpet all the major roads within a

period of three months starting from 1.3.2020. Tertiary roads shall be re-carpeted within four months from 1.3.2020.

The attention of the Court has also been drawn by the learned Amicus Curiae to para 6 of the affidavit, wherein it has been stated that in Public Bike Sharing Project, 617 number of dock stations are considered with capacity of 5000 number of bicycles. The implementation period for the said project is 18 months with project phasing allowed in 4 phases, with each phase to cover 25% of entire PBS system covering the entire city. The tenders were called and bids were opened before 5.12.2019. Three bidders had participated in the tender process. The Union Territory, Chandigarh is directed to complete tender process within a period of one month from today and thereafter, to complete the entire work as per the contents of para 6 within a period of one year.

Mr. Pankaj Jain also apprised the Court that the draft parking policy has been framed. A copy of the same be placed on record on or before the next date of hearing.

We appreciate the earnest efforts made by Union Territory, Chandigarh, in construction of cycle tracks. However, all over the world, all the tracks are well lighted. Consequently, there shall be a direction to the UT Administration to provide lighting on all the cycle tracks throughout Chandigarh within six months subject to availability of funds. In any case, lighting in phases shall start within three months.

In the affidavit filed by the Senior Superintendent of Police, Security and Traffic, Union Territory, Chandigarh dated 17.1.2020, it is averred that Chandigarh Traffic Police has recommended that dashboard

cameras may be installed in all the ambulances of UT Chandigarh, in order to take action against motorists who do not give free passage to ambulances in the City. Union Territory Administration is directed to ensure that dashboard cameras are installed in all the ambulances registered in UT Chandigarh or plying in Chandigarh within a period of three months from today.

We also highlight that the school buses shall also be given preference, on the analogy of ambulance and fire tenders, in larger public interest. The UT Administration is directed to ensure that seats in the school buses plying within the territorial jurisdiction of Chandigarh are fitted with seat belts within a period of six months from today. The Secretary Education, Chandigarh Administration, is directed to convene a meeting with all the stakeholders, i.e. Heads of all the educational institutions in and around Chandigarh, regarding the installation of seat belts in school buses.

We also take judicial notice of the fact that students including toddlers are ferried across to their schools in Three Wheelers/ Auto Rickshaws. These are over crowded. It puts the lives of the students at risk. There is every possibility of a child falling from the over crowded auto rickshaw. It is the duty of all of us to ensure that the students, more particularly those in 1st to 5th Standard are protected by ensuring that the journey from their homes to school should be without any risk or peril.

Accordingly, henceforth we ban carrying of more than four students in an auto rickshaw from their house to school. The Senior Superintendent of Police, Security and Traffic, Union Territory, Chandigarh, is to ensure the due compliance of the order. On the auto

rickshaws, it shall be prominently displayed that the school children are being carried in the auto rickshaws.

We permit every citizen in Chandigarh to take photographs of the auto rickshaw carrying more than four students to the schools and send the same to the Registrar General of this Court for taking action against the defaulters.

Mr. Pawan Girdhar, learned Additional Advocate General appearing on behalf of the State of Haryana fairly submits that the traffic plan of District Panchkula shall be produced before this Court within a period of 15 days from today. The same prayer has been made by Mr. I.P.S. Doabia, learned Additional Advocate General, Punjab, for the traffic plans of District S. A. S. Nagar (Mohali).

The number of accidents in the tricity are on rise. One of the cause is indiscriminate use of mobile phones while driving. The Administration is remiss in not taking strict action against the motorists, who violate the traffic rules by using the mobile phones while driving. We direct the Senior Superintendent of Police, Security and Traffic, Union Territory, Chandigarh, to launch a drive to curb the tendency of the motorists to use mobile phones while driving. We also make it clear that to maintain the smooth flow of the traffic, no person shall be permitted to park his vehicle on cycle tracks or pedestrian path forthwith.

We also make it clear that certain norms be observed while there is VVIP movement in the city. We hope and trust that the administration would ensure that in that eventuality the ambulances and school buses are given preference and they are not unnecessarily made to

wait in the traffic jam.

The Administration must ensure that during the VVIP movement, minimum inconvenience is caused to the general public.

The access to roads is a Fundamental Right. Their Lordships of Hon'ble the Supreme Court in State of Himachal Pradesh vs Umed Ram Sharma and others 1986 (2) SCC 68, have held as under:-

“11. It appears to us that in the facts of this case, the controversy lies within a short compass. It is well-settled that the persons who have applied to the High Court by the letter are persons affected by the absence of usable road because they are poor Harijan residents of the area, their access by communication, indeed to life outside is obstructed and/or prevented by the absence of road. The entire State of Himachal Pradesh is in hills and without workable roads, no communication is possible. Every person is entitled to life as enjoined in Article 21 of the Constitution and in the facts of this case read in conjunction with Article 19(1)(d) of the Constitution and in the background of Article 38(2) of the Constitution every person has right under Article 19(1)(d) to move freely throughout the territory of India and he has also the right under Article 21 to his life and that right under Article 21 embraces not only physical existence of life but the quality of life and for residents of hilly areas, access to road is access to life itself. These propositions are well-settled. We accept the proposition that there should be road for communication in reasonable conditions in view of our Constitutional imperatives and denial of that right would be denial of the life as understood in its richness and fullness by the ambit of the Constitution. To the residents of the hilly areas as far as feasible and possible society has constitutional

obligation to provide roads for communication.”

The parties are directed to exchange their affidavits three days before the date of hearing.

List on 21.1.2020.

Photocopy of this order be placed on the file of each connected case.

(Rajiv Sharma)
Judge

17.1.2020
vs

(Amol Rattan Singh)
Judge



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