

Chief Justice's Court

Case :- P.I.L. CIVIL No. - 2163 of 2017

Petitioner :- We The People Thru. General Secretary Prince Lenin

Respondent :- Union Of India Thru. Secy. Ministry Of Human Resource & Ors.

Counsel for Petitioner :- Prince Lenin (In Person)

Counsel for Respondent :- C.S.C., A.S.G.

Hon'ble Govind Mathur,Chief Justice

Hon'ble Chandra Dhari Singh, J.

In *M.C. Mehta Vs. Union of India and others* reported in 1997 (8) SCC 770, the Supreme Court while dealing with the issue relating to control and regulation of traffic in National Capital Region and National Capital Territory, Delhi held that the traffic movement and its control is a matter of paramount safety and, therefore, falls within the ambit of Article 21 of the Constitution of India. The Apex Court after examining several provisions of the Motor Vehicles Act, 1988 and the rules framed thereunder issued several directions including certain general directions relating to the movement of buses. The directions so given reads as follows:-

“No bus belonging to or hired by an educational institution shall be driven by a driver who has

– less than ten years of experience;

– been challaned more than twice for a minor traffic offence;

– been charged for any offence relating to rash and negligent driving.

All such drivers would be dressed in a distinctive uniform, and all such buses shall carry a suitable

inscription to indicate that they are in the duty of an educational institution.

(g) To enforce these directions, flying squads made up of inter-departmental teams headed by an SDM shall be constituted and they shall exercise powers under Section 207 as well as Section 84 of the Motor Vehicles Act.

The Government is directed to notify under Section 86(4) the officers of the rank of Assistant Commissioners of Police or above so that these officers are also utilised for constituting the flying squads.”

In light of the directions given by the Supreme Court, the State of Uttar Pradesh also provided certain norms for movement of buses including the buses carrying children to the educational institutions. The Office Memorandum dated 29th June, 1998 was issued by the Transport Commissioner of the State pertinent to the conditions required to be adhered for fitness of the school buses. The directions issued under the office memorandum aforesaid reads as follows:-

“1. Arrangement of seats :-

(a) There should be comfortable seats in the vehicle and armrest in one side.

(b) Safety belt should be wearable between armrest and body by ordinary hook.

(c) There should be arrangement under the seat for keeping school bag (related to books etc. of children) and there should be arrangement behind the seat for hanging the water bottle.

(d) Neck-rest/ head-rest should be spongy or soft.

(e) For stepping up in the bus there should be arrangement of collapsible foot-steps in door in addition with foot-board. On opening the door the foot-steps

should come out of the body and form foot-steps/stairs at lesser height from the earth and on closing of doors the foot-steps should come back inside the body.

2. *On opening the gate, a symbol of SCHOOL or STOP should be placed so that on stopping the bus, the traffic coming from back may take caution for security of children alighting from bus. Similarly there should be arrangement for light and sound blinker on opening the gate and audible siren should be fitted which may make the traffic running on roads attentive towards safety of children.*

3. *The glass and channel of windows near the seats should be fitted in such a manner so that a child may not protrude out his neck or head outside the window but should not be deprived of air.*

4. *In case of disaster there should be arrangement of two emergency gates in the bus. Keeping in view the comfortable sitting, the height of seats for sitting of children should be a little lower in respect of usual seat.*

5. *The seats installed confronting each-other should be installed near the gate.*

6. *There should be an arrangement of speed alarm near the seat of driver so that in case of over-speeding the Teachers/ Bus-Incharge may give instruction to the driver for controlling the speed.*

7. *The colour of the school-bus should be golden yellow with brown/blue lining.*

The strict compliance of aforesaid orders be ensured. There should be a symbol of SCHOOL or STOP reflected near the gate and at right backside so that on stopping the bus, the traffic coming from back may take caution for security of children alighting from bus. Similarly there should be arrangement for light and sound blinker on opening the gate and audible siren should be fitted which may make the traffic

running on roads attentive towards safety of children.

3. *The glass and channel of windows near the seats should be fitted in such a manner so that a child may not protrude out his neck or head outside the window but should not be deprived of air.*

4. *In case of disaster there should be arrangement of two emergency gates in the bus. Keeping in view the comfortable sitting, the height of seats for sitting of children should be a little lower in respect of usual seat.*

5. *The seats installed confronting each-other should be installed near the gate.*

6. *There should be an arrangement of speed alarm near the seat of driver so that in case of over-speeding the Teachers/ Bus-Incharge may give instruction to the driver for controlling the speed.*

7. *The colour of the school-bus should be golden yellow with brown/blue lining.*

The strict compliance of aforesaid orders be ensured.”

Though the directions were given by the State of Uttar Pradesh but it appears that the same were not adequately adhered. According to the petitioner, due to non-adherence of the instructions given, no safety and security as desired by the Apex Court was given to the children travelling to the educational institutions through the school buses.

In the petition for writ several instances have been given where due to negligence of the drivers or due to bad conditions of the vehicles the school buses met with accidents causing huge loss of life. The details of some of the instances occurred in recent past is as follows:-

“4.12.2014 – School bus collided with a train near level crossing in Mau District, U.P. resulting into death of 5 children and 13 others got injured.

11.8.2015 – Six school children were injured in an accident where the school bus got collided with a car at Delhi Yamunotri highway in the district of Baghpat.

25.7.2016 – Eight school children got killed when the school bus collided with a train at an unmanned railway crossing in district Bhadohi.

22.12.2016 – School bus met with an accident resulting into severe injuries to 12 children as the driver of the bus was overtaking a cart.

16.1.2017 – 40 school children got injured at District Mathura in an accident on account of failure of steering of the school bus.

19.1.2017 – At District Etah, at Aliganj road a school bus carrying school children collided with a truck which resulted into death of 12 children and 30 injured.”

Referring all the incidents mentioned above, this petition for writ is before us to have following directions:-

“i) issue a writ order or command in the nature of mandamus directing the O.P. No.2, 3 & 4 to ensure that during winter fog or any other seasonal/weather disturbance the order of the District Magistrate for closure of schools in such district must be followed by all schools within the district.

ii) issue a writ order or command in the nature of mandamus directing the O.P. No.5 to carry out regular inspection of school buses/vehicles deployed for carrying school children regarding their fitness as per the norms.

ii) issue a writ order or command in the nature of mandamus directing the opposite parties to constitute flying squads as per the directions of Hon’ble Apex Court in case

of M.C. Mehta Vs. UoI & Ors (1997) 8 SCC 770.

iv) to issue, any appropriate writ, order or direction which this Hon'ble Court may deem, just and proper in the nature and circumstances of the case.”

A counter to the writ petition has been filed on behalf of respondent no.5, the Principal Secretary, Department of Transport, Government of Uttar Pradesh, Lucknow.

As per the avements contained in the counter affidavit, the State of Uttar Pradesh has taken several steps to check the accidents and further that the government is abide by the directions given by the Supreme Court and as such necessary steps to ensure complete safety and security to the children travelling to educational institutions through buses have already been taken.

It is stated that a detailed policy for registration and fitness of the school buses in continuation of the earlier Office Memorandum dated 29th June, 1998 a comprehensive plan relating to the issue was declared on 20th November, 2012. The comprehensive guidelines provided under the order dated 20th November, 2012 reads as follows:-

“General Conditions :-

1. *It is mandatory for the vehicle to be registered in the name of educational institute.*
2. *Private operators can also use their vehicles as school bus after getting it modified as per school standards and getting it registered.*
3. *For operating in schools, it is mandatory to obtain Private Service Vehicle Permit for buses mentioned at Serial No. 1 and Contract Vehicle Permit for buses mentioned at Serial No. 2.*
4. **“School Bus”** *must be written on the front and back of each school bus.*

5. *On the buses hired by a school, “On School Duty” must be written on the front and back of school bus.*
6. *No school bus shall carry the fare paying passengers.*
7. *The name and telephone number of the school must be mentioned on each school bus.*
8. *Maximum life of the school buses shall be 15 years.*
9. *An index of the children, their names and addresses, class, blood group and route chart shall be available in each school bus.*
10. *In each school bus, apart from the driver, as per the requirement, experienced male or female attendants would be deployed to take care of the safety of the students.*
11. *It would be mandatory for the driver and attendant of the bus to wear prescribed uniform during duty hours.*
12. *The colour of the school bus must be golden yellow with brown/blue lining.*

The Standards related to Safety :-

1. *The fire extinguishers shall be mandatorily available in every bus as per the seating capacity. For example – In a bus up to 12 seats - 01 fire extinguisher of 2 Kg shall be available in driver cabin, In a bus up to 12-20 seats - 01 fire extinguisher of 5 Kg shall be available in driver cabin, and in a bus having more than 20 seats – there shall be 02 fire extinguishers of 5 Kg each- 01 in driver cabin and 01 near the emergency gate.*
2. *It is mandatory to keep first-aid box in each bus.*
3. *The maximum speed limit of each school bus shall be 40 Km/ Hour, and it shall be mandatory to get equipped an alarmed speed control device/speed governor to ensure it.*

4. *The school bus shall have a steel body which would be fully closed.*
5. *The gate/door in a school bus shall be fitted in such a manner that it can be closed properly.*
6. *The canvas hood/canopy shall not be fitted in a school bus in any condition.*
7. *The driver or attendant of the bus shall inform the School Authority in case of emergency.*
8. *The mandatory Quarterly Checking of the C.N.G. school vehicles shall be get conducted at the authorized centres.*
9. *The Pressure Horn or Tonal Sound System shall be prohibited.*
10. *As per the judgment passed by Hon'ble the Supreme Court on 16.12.1997 in Writ Petition (C) – No. 13029/1985 :-*
 - (a) *No school bus shall carry the children in excess of more than one and half time of the registered seating capacity.*
 - (b) *The driver of school bus shall hold a commercial license which shall be at least 05 years old and it shall bear the badge of driving school bus.*
 - (c) *While renewing the license of these drivers, the old criminal history of the driver should also be looked into and the renewal shall be granted after subjecting him to an exhaustive test.*

Seating Arrangements :-

1. *The vehicle must be equipped with comfortable seats and there must be armrest at a side.*
2. *The seat belt must be wearable between the armrest*

and body by using a simple hook.

3. *There must be arrangements keeping school bag (related to the books etc. of children) underneath the seat.*

4. *The neck-rest/ head-rest must be spongy and soft.*

5. *For stepping up in the bus there should be arrangement of collapsible foot-steps in door besides foot-board. On opening the door the foot-steps should come out of the body and form foot-steps/stairs at lesser height from the earth and on closing of doors the foot-steps should go back inside the body.*

6. *On opening the gate, a symbol of **School** or **Stop** should be displayed near the gate and at right side of the back so that on stopping the bus, the traffic coming from the back may take caution for safety of children alighting from bus. Similarly there should be arrangement for light and sound blinker on opening the gate and audible siren should be fitted which may turn the traffic running on the roads attentive for safety of the children.*

7. *The glass and channel of windows near the seats should be fitted in such a manner so that a child may not protrude out his neck or head outside the window but should not be deprived of air.*

8. *In case of emergency, there should be arrangement of two emergency gates in the bus. Keeping in view the comfortable sitting, the height of seats for sitting of children should be a little lower in respect of usual seat.*

9. *The seats installed confronting each-other should be installed near the gate.*

10. *There should be an arrangement of speed alarm near the seat of driver so that in case of over-speeding the Teachers/ Bus-Incharge may give instruction to the driver*

for controlling the speed.

All the Regional Transport Officers are hereby directed that getting approved the aforementioned guidelines from Regional Transport Authorities of their respective regions, they must get it included in the permit conditions of all the school buses operated in the districts under them and ensure enforcement of all the standards strictly at the time of their fitness test.”

During the course of arguments, it is also informed to the Court that the guidelines prescribed have also been incorporated in the permit conditions for plying the school buses.

On going through the guidelines prescribed by the government, we are having no doubt that at least on papers the government has taken effective steps. However, the main issue is with regard to compliance of the guidelines so given. The details of the accidents given by the petitioner in the petition for writ indicates that most of the school buses are not adhering the conditions prescribed under the order dated 20th November, 2012. No material is also placed on record to indicate that any inspection is made by any competent authority of the State to ensure compliance of the guidelines by the persons plying school buses.

In view of it, we deem it appropriate to direct the respondent Principal Secretary, Government of Uttar Pradesh, Department of Transport to instruct all the District Magistrates of all the districts in the State of Uttar Pradesh to get each and every school bus inspected to ensure their fitness as per the order dated 20th November, 2012. The inspection is required to be made with the assistance of the Officers of the Transport Department at district level. The assistance of the police authorities may also be taken by the District Magistrates.

The inspection as stated above, is required to be made as a State Level campaign and that is to be completed on or before 2nd March, 2020. In the event of noticing non-compliance of any condition prescribed, it

would be open for the competent authority to take appropriate action against the bus operator in accordance with law. The District Magistrates shall submit all the inspection reports to the Principal Secretary to the Government of Uttar Pradesh, Department of Transport within a period of 10 days subsequent thereto. A complete compliance report then is required to be filed before this Court on or before 21st March, 2020.

Let this petition for writ be listed for further orders on 27th March, 2020.

The respondent no.5 is further directed to examine viability for installing tracking system in all the school buses in the meanwhile. The report in this regard is also required to be submitted before the next date of listing.

Order Date :- 13.01.2020
Bhaskar

(Chandra Dhari Singh, J.)

(Govind Mathur, C.J.)

The judgment and order has been pronounced under Chapter VII Rule 1(2) of Allahabad High Court Rules, 1952.

Dated:13.01.2020

(Chandra Dhari Singh, J.)