

(2015) 03 AHC CK 0125

In the Allahabad High Court

Case No : Public Interest Litigation (PIL) No. 49265 of 2014

Aman Mani Tripathi and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 19-03-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 52 (1)

Citation : (2015) 4 ADJ 421 : (2015) 110 ALR 561 : (2015) 3 ESC 1686

Hon'ble Judges : D.Y. Chandrachud, C.J.;Suneet Kumar, J

Bench : Division Bench

Advocate : Smriti Kartikeya and Rakesh Kumar Singh, for the Appellant

Final Decision : Disposed off

Judgement

1. An investigative report has been prepared by four law students under the auspices of the Human Rights Law Network, which highlights the serious safety hazards, which are faced by young school going children, who are transported from their homes to Schools in vehicles which are fitted with unauthorized LPG kits. The students have done a commendable amount of research in the course of their fact finding report. Some of the aspects which have been highlighted in the petition are startling. For instance, the report highlights that the LPG kits, which have been fitted, are refilled with home cylinders posing a grave danger to the school going children. In many of the buses, the seats, where the children are seated, are located above the LPG cylinders in violation of the applicable norms. Many of the drivers of the vehicles informed the students that they opt for cheap LPG kits, which are available in the market most of which, are unauthorized. The recommendations, which have been submitted before the Court in the fact finding report, are in the following terms:

"The overcrowding in the school vehicles especially in tempos, vans and also trolleys should be strictly checked by the competent authority regularly.

The crowding should be checked because it imposes a serious threat on the lives

of the small children.

The use of unauthorized LPG kits in school vehicles should be banned and its use should also be strictly checked.

The use of the cheap kits by the van drivers imposes an imminent threat on the lives of the children.

The fact finding team also recommend that the sales of the cheap and old parts of LPG kits should be banned because the seller of these kits does not give any kind of guarantee on the products.

The proper security rods, grills, nets, etc. should be there in the vans to ensure the safety of the children.

There should be proper fire extinguisher kit in the vehicles for ensuring the safety of the children.

Authorised LPG refilling centres should be opened in Allahabad."

Section 52 (1) of the Motor Vehicles Act, 1988 provides as follows:

"52. Alteration in motor vehicle.--(1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer.

Provided that where the owner of a motor vehicle makes modification of the engine, or any part thereof, of a vehicle for facilitating its operation by different type of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversion kit, such modification shall be carried out subject to such conditions as may be prescribed:

Provided further that the Central Government may prescribe specifications, conditions for approval, retro fitment and other related matters for such conversion kits;

Provided also that the Central Government may grant exemption for alteration of vehicles in a manner other than specified above, for any specific purpose."

2. This Court entertained the petition which was filed in the public interest and on 10 October 2014, requested the District Magistrate, Allahabad and Regional Transport Officer, Allahabad, to cause an enquiry to be made in the matter and to take all such remedial steps as were required. Thereafter in a further order dated 31 October 2014, this Court noted, on the basis of a notification dated 26 July 2011 issued by the State Government, that two agencies have been authorised at Allahabad for the alteration of vehicles to provide for the installation of LPG kits. However, the situation on the ground appears to be that a large number of outlets were selling unauthorized LPG kits, which were installed in vehicles, thereby posing a grave danger both to the occupants of the vehicles and to the persons in the vicinity. Children, who are using such vehicles as school buses,

were being subjected to grave danger.

3. In the order of this Court dated 31 October 2014, note was taken of the fact that a Committee was constituted consisting of the representatives of the traffic police and the Transport Department. This Court directed that due and proper enforcement action must first and foremost be taken. The directions of the Court were to the following effect:

"First and foremost, due and proper enforcement action must be initiated by adopting steps for holding accountable all operators of such vehicles, who are found to have installed unauthorized LPG kits. Surprise checks must be carried out on a regular basis and all measures warranted in law must be initiated so as to obviate any danger to the school going children. Secondly, apart from enforcement action, it would be necessary to bring on board the academic authorities by informing them of the requisite legal requirements, so as to ensure that the operators, if any, with whom the school authorities have made arrangements, may take due and necessary precautions to ensure observance of law. Thirdly, the parents need to be sensitized while sending their children from their homes to Schools in private vehicles, which are engaged by the parents in a given neighbourhood. In this regard, due and necessary steps should be taken for ensuring that the parents are made cognizant of the need to ensure that the children are transported in proper vehicles. Whether a vehicle has been retrofitted with an LPG kit from an authorised source, as contemplated in law, can be provided by way of information by the Transport Department and the school authorities must take due and necessary steps to ensure that joint and coordinated action is taken together with the parents, the schools and the enforcement authorities."

4. Moreover, the District Magistrate was directed to ensure that the Committee, which had been constituted by him, be broad based so as to include the representatives of schools, representatives of parents as well as the counsel for the petitioners. The District Magistrate was directed to disseminate information widely with regard to the directions which have been issued.

5. In pursuance of the previous order of this Court, the Regional Transport Officer, Allahabad has filed an action taken report. The action taken report indicates that necessary steps have been taken for enforcing compliance with law and for taking steps against vehicles which are found to be fitted with unauthorized LPG kits. The authorities have also taken steps to adequately publicize the campaign and to inculcate a sense of awareness by due publicity.

6. We are of the view that the steps which have been already taken by the authorities must be pursued in future. The disposal of the present proceedings should not result in a situation where there is laxity in compliance with the requirements of law. Consequently, we direct the authorities to take the following steps;

(i) Strict enforcement shall continue to be made of the provisions of law and due

and proper steps shall be taken against any vehicle found to be fitted with unauthorized LPG kits;

(ii) The District Administration shall, in particular, ensure awareness both amongst educational institutions as well as the parents of school going children. The District Administration shall also ensure that educational institutions take all due and necessary steps to prevent hazards to safety to school going children traveling in vehicles retro fitted with LPG kits;

(iii) Publicity campaigns shall continue as already initiated by the District Administration;

(iv) The Committee which has been constituted by the District Magistrate shall periodically meet and issue all appropriate suggestions and recommendations for due implementation and to obviate dangers to safety which may be posed to school going children. The Committee shall make all necessary endeavour to redress the grievances, if any, that may be brought to its attention.

The petition is, accordingly, disposed of. There shall be no order as to costs.