
(2000) 02 GAU CK 0033
In the Gauhati High Court
Case No : Writ Petition (PIL) No. 38 of 1999

Bijaya Nanda Choudhury

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 09-02-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 2 ACC 357 : AIR 2000 Guw 174 : (2000) 2 GLT 38

Hon'ble Judges : Brijesh Kumar, C.J.;A.K. Patnaik, J

Bench : Division Bench

Advocate : Party in person, for the Appellant; B.C. Das and H. Rahman, Addl. Sr. Govt. Advocate, for the Respondent

Judgement

Brijesh Kumar, C.J.—This petition in the public interest has been preferred by Sri Bijaya Nanda Choudhury who appears In person.

2. The grievance which has been raised in the petition is about the unauthorised use of red light on the cars by many persons who are not entitled for the same under any of the notifications issued under the provisions of Motor Vehicles Act. Similar grievance, the petitioner, has also raised during the course of argument, about the use of siren. Yet another grievance which has been raised is that due to movement of VIPs other traffic is stopped causing inconvenience to the general public.

3. An affidavit-in-opposition has been filed by the State.

4. We have heard the petitioner in person and Sri B.C. Das, learned State-counsel appearing for the respondents.

5. So far it relates to use of red light, different notifications issued by the competent authorities for use of red light have been annexed along with the affidavit-in-opposition. A list of those who are entitled to use red light is indicated in the notifications, copies of which have been filed along with the affidavit-in-opposition as Annexures-"A". "B" & "C". According to the petitioner, difficulty

arises when persons not authorised to use red light, they use in disturbing the flow of traffic on the roads and causing Inconvenience to the people. This problem also seems to be even felt by the authorities in the Government which fact would be evident from the Annexures filed along with the affidavit-in-opposition where it has been indicated that persons not authorised to use such light have been using and directions were issued to remove the same. We find substance in the submission that if unauthorised use of red light is allowed or is not checked, it may be counter-productive and would frustrate the purpose for making the provisions by means of notifications under the Motor Vehicles Act. Regarding those who are entitled to use the red light, we feel that the real difficulty lies in implementing the decision despite the instructions which seem to have been issued from time to time by the authorities to ensure that red light fixed on front of the cars of officers and others not entitled to use the same should be removed immediately. Yet the light is being used by many who are not entitled for the same. The grievance raised by the petitioner can neither be denied nor can be said to be without any basis.

6. In so far as it relates to inconvenience caused to the people in general by movement of VIPs for which the regular flow of traffic has to be stopped for some time, it has been submitted on behalf of the respondents that particularly in this region looking to the risk perception in respect of those who can be target of any kind of activities resulting in risk of their lives or otherwise, it becomes necessary to regulate the traffic in a manner that such risk is minimised. It is submitted that as a State, it is the responsibility of the respondents to take that factor into consideration and to find out ways and means to take proper steps and make arrangements. It is true that as a part of their administrative duty, it is necessary for the respondents to look into that aspect of the matter and they must also take all possible steps as may be advised and necessary, but at the same time the fact which should not be lost sight of is that it should be done in a manner that people in general are not inconvenienced and flow of regular traffic is not stopped for more time than necessary. The authorities have to act in a manner that they must balance the security on the movement of the VIPs and convenience of the people and the movement/flow of traffic. It is not necessary to emphasis that amongst those moving in the traffic on the roads, often they have to attend to some emergent work or business or to seek medical help urgently needed or for the like purpose. This aspect of the matter must always be kept in mind while regulating traffic eliminating or minimising the risk factor in movement of vulnerable people or VIPs. Normal flow of traffic without any kind of obstruction would indeed be ideal, but circumstances often compel the concerned authorities to regulate the traffic for administrative necessity and reason and in discharge of their responsibility as State. Yet another thing which must also be kept in mind is that while regulating the traffic or stopping the flow of regular traffic as may be barely necessary, the officers involved in the Job must act with such restraint that there should not be any kind of man-handling or inconvenience or ill behaviour with the people. In the affidavit-in-opposition, it

has been mentioned at places more than one that in case any particular individual is aggrieved, it is always open to him to complain about the officer concerned to the higher authorities. We feel, this would not be an appropriate answer to the problem. The higher authorities in the helms of the affairs must consider whatever is necessary while implementing any of the schemes or functions. It is always open for a citizen or an individual to make complaint to the higher authorities. But there has also to be an effort and concerned on the part of those who are responsible for it to see that the security regulations are implemented with least possible inconvenience to the people and if it is taken care of that would be the best achievement on the part of the authorities.

7. In the light of the discussions held above, we finally dispose of this petition with the direction to the Chief Secretary to the Government of Assam and the Director General of Police, Assam, to instruct and ensure that unauthorised use of red light and siren is checked and stopped without delay. They are further directed to see that the traffic regulations relating to VIPs where ever any risk factor is involved be such that avoidable inconvenience to the public should be avoided and it should be implemented in a manner that the even flow of traffic is not affected more than necessary and there may not be any mis-handling of the members of the public nor they be treated disgracefully.

8. Considering the entire facts and circumstances of the case, we pass no order as to costs.