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**(2015) 11 SHI CK 0075**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWPII No. 23 of 2015**

Court on its Own Motion

APPELLANT

Vs

State of H.P.

RESPONDENT

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**Date of Decision :** 21-11-2015

**Acts Referred:**

Shimla Road Users and Pedestrians (Public Safety and Convenience) Act, 2007 —  
Section 12, 14, 15, 3, 6

**Citation :** (2015) 11 SHI CK 0075

**Hon'ble Judges :** Rajiv Sharma and Tarlok Singh Chauhan, JJ.

**Bench :** Division Bench

**Advocate :** M.A. Khan, Additional Advocate General, for the Respondent

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## Judgement

1. Court has taken judicial notice of the manner in which official vehicle of one of the Hon'ble Judges bearing registration No. HP-07B-0103 was challaned on 18.11.2015 and the official vehicle of another Hon'ble Judge bearing registration No. HP-07B-111 was stopped near Railway Board Building.

2. The State Assembly has enacted the Shimla Road Users and Pedestrians (Public Safety and Convenience) Act, 2007 (hereinafter referred to as the "Act" in short) to restore the sanctity of the Shimla Mall Road by preventing its use as a thoroughfare and to provide for regulation of vehicular traffic in the interest of public safety and convenience on the sealed and restricted roads to Shimla town to prevent annoyance and injury to pedestrians and to provide for matters connected therewith or incidental thereto.

3. According to section 3 of the Act, all sealed roads specified in Schedule-I shall be sealed to all motorized traffic, except the official and security vehicles attached with his Excellency the President of India, the Vice-President of India, the Hon'ble Prime Minister of India, his Excellency the Government of Himachal Pradesh and the Hon'ble Chief Minister of Himachal Pradesh. According to first proviso of Sub-section (1)(i) of section 3, no vehicle other than public utility vehicle shall be permitted to ply on the Core Mall Road, except vehicles of the

President of India, the Vice President of India, the Prime Minister of India, the Governor of Himachal Pradesh, the Chief Minister of Himachal Pradesh and their accompanying official and security vehicles. According to sub-clause (ii) of Sub-section (1) of section 3, official and security vehicles attached with the Speaker of Himachal Pradesh State Legislative Assembly, Chief Justice of Himachal Pradesh High Court, Former Chief Ministers of the State, Ministers of Himachal Pradesh, Chief Parliamentary Secretaries/Parliamentary Secretaries, Judges of Himachal Pradesh High Court and Deputy Speaker of the Himachal Pradesh State Legislative Assembly shall require no pass for plying on Core Mall Road and all sealed roads.

4. It is, thus, evident that the vehicles of Hon''ble Judges are exempted from rigours of section 3 of the Act.

5. According to sub-section (2) of section 3 of the Act, all restricted roads specified in Schedule-II are closed to all motorized traffic, except the official and security vehicles attached with the Hon''ble President of India, the Hon''ble Vice President of India, the Hon''ble Prime Minister of India, the Hon''ble Governor of Himachal Pradesh and the Hon''ble Chief Minister of Himachal Pradesh and the official and security vehicles attached with the Hon''ble Speaker of Himachal Pradesh State Legislative Assembly, Hon''ble Chief Justice of Himachal Pradesh High Court, Former Chief Ministers of the State, Ministers of Himachal Pradesh, Chief Parliamentary Secretaries/Parliamentary Secretaries, Hon''ble Judges of Himachal Pradesh High Court and Deputy Speaker of the Himachal Pradesh State Legislative Assembly.

6. The procedure for application for grant and renewal of a pass for sealed road is provided under section 6 and section 7 provides for mechanism for grant and renewal of a pass for restricted roads. There is a provision for providing temporary passes in certain circumstances including tourist pass. It is the duty cast upon the Deputy Commissioner and Superintendent of Police, Shimla to enforce the provisions of this Act. Penalties are provided under section 12 of the Act. The mechanism is provided under section 14 for cancellation of passes and there is provision for appeal under section 15 of the Act.

7. The vehicle of Hon''ble Judge has been challaned on 18.11.2015 and the vehicle of one of Hon''ble Judges was stopped at Railway Board Building, Shimla. The vehicles have been challaned/stopped though exempted from the provisions of the Act causing unnecessary inconvenience and harassment to the Hon''ble Judges. The Judges are not a special class. They have never asked for any special privilege from the State Government. However, the State Government in its own wisdom has exempted their vehicles from possessing passes to ply their vehicles on sealed/restricted roads. This privilege has been given to the Hon''ble Judges taking into consideration the Constitutional duties being discharged by them.

8. We can take judicial notice of the fact that on various other occasions also, the

vehicles of this Registry have been intercepted/challaned even if Doctor was travelling in the vehicle to attend the ailing family member of the Hon"ble Judge. We are constrained to gather impression that the functionaries of the State Government are trying to put the Hon"ble Judges to uncalled for hardship. We also take judicial notice of the fact that number of vehicles ply on sealed/restricted roads without being challaned by the police officers/officials.

9. We had requested the presence of the Chief Secretary, Principal Secretary (Home) and the Director General of Police, Himachal Pradesh. The Chief Secretary and the Principal Secretary (Home) alongwith Mr. Kundu are present in the Court. They have submitted that they have highest regard to the Courts and the matter would be looked into.

10. Accordingly, in view of the startling revelation made hereinabove and the question of great public importance, the Registry is directed to register the petition as a Public Interest Litigation.

11. Accordingly, till further orders, the following mandatory directions are issued:

"a) The Chief Secretary is directed to ensure that no vehicle attached to the Hon"ble Judges is unnecessarily stopped or challened.

b) No vehicle except the vehicle of His Excellency Governor of Himachal Pradesh, Hon"ble Chief Minister and Hon"ble Chief Justice and public utility vehicles as provided under the Act shall ply between Shimla Club to Lift and between Railway Board Building to C.T.O.

c) Till further orders by this Court, the permits/passes issued to ply the vehicles between Shimla Club to Lift and between Railway Board Building to C.T.O shall remain suspended.

d) Neither Additional District Magistrate nor Public Relation Officer, Shimla shall issue any permit to ply the vehicles either on sealed road or restricted road. The permits issued by these authorities shall not be valid till further orders by this Court."

12. The Chief Secretary, Government of Himachal Pradesh is also directed to file affidavit within a period of four weeks what steps have been taken to provide security at the residences of Hon"ble Judges taking into consideration the constitutional duties being discharged by them.

13. The Chief Secretary and the Director General of Police, Government of Himachal Pradesh shall be personally responsible/accountable to carry out the mandatory directions issued hereinabove.

The Challan is permitted to be taken on record. List after four weeks.