

(1993) 09 KAR CK 0008

In the Karnataka High Court

Case No : Writ Petition No's. 17519, 17997, 18344 of 1989, 24862, 27205 and 27968 of 1993

K. Veeresh Babu and etc.

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 29-09-1993

Acts Referred:

Constitution of India, 1950 — Article 19 (1) (a), 19 (1) (d), 21
Karnataka Motor Vehicles Rules, 1989 — Rule 498A
Motor Vehicles Act, 1988 — Section 129, 85 A

Citation : AIR 1994 Kar 56 : (1993) ILR (Kar) 2939 : (1993) 4 KarLJ 769

Hon'ble Judges : R.V. Vasanthakumar, J

Bench : Single Bench

Advocate : Gangadhar M.J., N. Kumar, Ko. Chennabasappa C.G. Shashivardhan and H. Kantha Raja, for the Appellant; Sylendra kumar and Smt. P. Jayalakshmi, C.G.S.C., C.V. Kumar, Govt. Pleader, for the Respondent

Judgement

1. Reliefs sought for by each of the petitioner the following writ petitions are as detailed below.

W.P. No. 17519/89

(a) Writ in the nature of certiorari declaring that the impugned Rule 230 of the Karnataka Motor Vehicles Rules based on Section 129 of the Motor Vehicles Act, 1988 and final pronouncement or paper notification by respondent No. 4 as null and void and ultra vires the Constitution or any other direction.

W.P. 17997/89

(a) To strike down Section 129 of the Motor Vehicles Act, 1988 as unconstitutional and the notification given under Annexure-A be quashed by a writ of certiorari and for such other writ or order or direction.

W.P. 18344/89

(a) Declare the provisions of Section 129 of the Act and the Rule 230 of the Rules, as ultra vires of the Constitution.

(ii) Issue a writ of mandamus or order or direction in the nature of a writ not to enforce the provision of Section 129 and Rule 230 against the petitioners or others who drive or ride the motor cycle.

W.P. 24862/93

(a) To hold Section 129 of the Motor Vehicles Act, 1988 as ultra vires and also to consequently strike down Rule 230 of the Karnataka Motor Vehicles Rules 1989.

(b) To consequentially direct the 2nd respondent not to insist upon wearing of a protective headgear (Helmet)

(c) allow the writ petition with costs.

W.P. No. 27205/93

(a) Declare the provisions of Section 129 of the Act and the Rule 230 of the Rules as ultra vires of the Constitution.

(b) Issue a writ of mandamus or order or direction in the nature of writ not to enforce the provisions of Section 129 and Rule 230 against the petitioners or others who drive or ride the Motor Cycle.

W.P. No. 27968/93.

(a) declare Section 129 of Motor Vehicles Act, 1988 as ultra vires and consequently strike down Rule 230 of the Karnataka Motor Vehicles Rules, 1989.

(b) direct the respondents 2 and 4 not to insist upon wearing of protective head gear (helmet) on the petitioner and the public.

(c) Issue any such other writ, order or direction.

Since common questions arise for consideration in all the above writ petitions, the following common order is passed. Counsel on record argued the matter on merits.

1A. Before dealing with the contentions advanced, it is apt to refer to the objects of Motor Vehicles Act (hereinafter called as "the Act"). The Motor Vehicles Act, 1988 consolidates and amends the law relating to Motor Vehicles, various Committees like National Transport Policy Committee, National Police Commission, Road Safety Committee, low powered two wheelers Committee were constituted to go into different aspects of road transport for purposes of updating, simplification and rationalisation of law relating to transports. A working group was also constituted to submit its proposals for a comprehensive legislation after reviewing the law in question to make it relevant to modern day requirements. In the light of proposals, recommendations of various committees and groups, Motor Vehicles Act, 1988 was enacted coming into force on

1-7-1989. Chapter VIII of the Act deals with control of Traffic such as limits of speed, limits of weight and limitations on use, parking places and halting stations, Driving regulations, duty to obey traffic signs, signals and signalling device, safety measures for drivers and pillion riders, wearing of protective headgear, duty to produce licences and certificate of Registration, duty to take precautions at unguarded railway level crossings, schemes to be framed for investigation of accident cases and wayside amenities power of central and State Governments to frame rules. Area of confrontation in these writs is about the legality and efficacy of Section 129 (Section 85A of the Act IV of 1939 of the Act) read with Rule 230 of Karnataka Motor Vehicles Rules. Section 129 of the Act reads:--

"Wearing of protective headgear.-

Every person driving or riding (otherwise than in a side car, on a motor cycle of any class or description) shall, while in a public place, wear a protective headgear of such description, as may be specified by the State Government by rules made by it in this behalf, and different descriptions of headgears may be specified in such rules in relation to different circumstances or different class or description of motor cycles.

Provided that the provisions of this section shall not apply to a person who is a Sikh, if he is, while driving or riding on the motor cycle, in a public place, wearing a turban:

Provided further that the State Government may, by such rules, provide for such exceptions as it may think fit.

Explanation.-- "Protective headgear" means a helmet which,--

(a) by virtue of its shape, material and construction could reasonably be expected to afford to the person driving or riding on a motor cycle a x degree of protection from injury in the event of an accident: and

(b) is securely fastened to the head of the wearer by means of straps or other fastenings provided on the headgear.

Rule 230 of the Karnataka Motor Vehicles Rules, 1989 reads:--

"Wearing of protective headgear:--

Every person while driver or riding a motor cycle of any type that is to say motor cycles, scooters and mopeds, shall wear protective headgear of such quality which will reduce head injuries to riders of two wheeler resulting from head impacts.

Provided that sub-rule (1) shall not apply to a person driving motor cycle with not more than three metric brake-horse-power.

(2) A protective headgear referred to in sub-rule (1) should be one which has been approved by the Indian Standard Institute Standard No. IS 41551-1976.

(3) Each protective headgear shall be permanently and legibly labelled, in a manner such that the label or labels can be easily read without removing padding or any other permanent part with the following:--

- (a) Manufacturer's name or identification;
- (b) size;
- (c) Month and year of manufacture;
- (d) The mark of Indian Standard Institute.

(4) The headgear shall have minimum three adhesive type retro reflective red colour stripes on the back of the headgear which will illuminate during the night. The stripes should be of the size 2 Cm x 13 Cm. and affixed horizontally to the headgear.

Amendment of Rule 230 as per Karnataka Motor Vehicles (Amendment) Rules 1993. In Rule 230 of the Karnataka Motor Vehicles Rules 1989 the proviso to sub-rule (1) shall be omitted.

2. The petitioners contend that the notification issued by the authorities making it compulsory to the two wheeler riders to wear helmets while plying the vehicles as being arbitrary having no reasonable nexus to the object to be achieved, and being beyond the legislative competence and inequitable while enforcing the same,

There are two schools of thought one in favour of such regulations making of wearing of helmets compulsory to two wheeler riders and others who are disfavoured of the same.

3. Petitioners belong to school of thought opposing the rules regulations, notifications, which make wearing of helmet compulsory. Petitioners contend the following:

a) Notification/ Regulation imposing wearing of helmet as being arbitrary inconsistent since it has no relevance to the object sought to be achieved since accidents occur irrespective of the fact whether riders wear helmet or not as the same is attributable to the carelessness and negligence of either riders or others. Human error as being the major cause for road accident.

b) Nature of compulsion as being violative of fundamental rights of the citizens in view of the fact that occurrence of accident is due to various other factors, such as non-maintenance of roads fixation of humps on the road, want of well trained traffic police constabulary, want of education in traffic signal rules, inaction in not dealing with offenders punitively.

c) That wearing of helmets cause hair loss, itching, disguises identity, restricts air movements, curtails hearing, results increased sweating, disturbs mental poise due to heavy object being strapped to their head, comical as far as fair sex is concerned especially in regard to their hairdos.

d) The Legislative policy of the Government being not consistent since implementation of the rule and depending upon the change of Government as experience goes, since the rule has been implemented on three or four occasion, adapting different yardsticks.

1) Wearing of helmet exempted for 50 CC vehicles.

2) Wearing of helmet exempted for 100 CC vehicles.

3) Wearing of helmet made optional.

4) Wearing of helmets made applicable to 35 CC mopeds, lunas.

e) Making it compulsory, results in financial burden since unscrupulous dealers are out to make fast buck by making up prices and more so insistence of ISI marks being impracticable for verification resulting in inconvenience to public.

f) Regulatory measures must always be coupled with procedural fairness.

4. Whereas another school of thought who are in favour of rules and regulations regarding wearing of helmets being made compulsory highlights the following:

a) In an accident involving the two wheeler riders, invariably the head portion of the injured is more prone to suffer heavy casualty and in many cases fatal.

b) Damage sustained to cerebral portion of the head would result in brain hemorrhage leading to Amnesia, loss of memory epilepsy and other inter-related neurological imbalances the curative aspect being costlier and protracted and not within the reach of commoner and para medical facilities being not immediately available except in few centers.

c) Head injuries caused in accidents involving two wheeler riders has no relation to the horse power of vehicle or its speed thereon.

d) A status report on head injuries and helmets prepared by a team of doctors from National Institute of Mental Health and Neuro Sciences (NIMHANS) based on epidemiology reveal that wearing of helmet reduces the risk injury to 30 per cent on an average and fatality of 40 per cent.

e) Statistics collected by Medical authorities and as well as investigating agencies reveal that 30 to 40 per cent of head injury victims were two wheeler riders and 50 to 80 per cent of riders without helmets being involved crashes being two wheeler riders.

(f) Minimization of severity of injuries in accidents occurring every day since it is easy to create life but difficult to prevent death. Accidents do not happen every day. Once is enough.

(g) Having in view of overcrowding in urban and Metropolitan areas, increase in the use of vehicles, haphazard traffic the compulsory rule of wearing helmet being good and for the benefit of the riders and their family members.

(h) What is to be noted by and large is that the notification reintroducing use of helmets for two wheeler riders not only stands the test of legal competency but also the test of reasonableness having nexus to the object sought to be achieved. It is within ones common knowledge that accidents happen due to various factors, such as violation of traffic rules, poor conditions of roads, drunken driving, careless and negligence driving and punishment meted to wrongdoers being not punitive etc. Compulsory wearing of helmet by regulation alone is not a substitute by itself but to solve the problem of saving the precious lives of riders who are involved in the accident. An awareness must be generated among the people the imperative need of using protective headgear to save their skins from damages by holding seminars, Press media and electronic media.

(i) Regarding the contention of individual liberty, fundamental right, suffice to state that individual liberty should not be stretched too long. Since it is time that heads start thinking of safety of heads. Regarding inconveniences spelt out such as exorbitant price, excessive sweating, itching, pressure on the head, wearing heavy helmets, etc., it is to be stated that they are not imponderable problems that could not be said to be solved, as it is open for the Government to regulate the sale of helmets through distributive agencies at a moderate price and further to have control over manufacturers to manufacture to the specifications enjoined by I.S.I.

5. Two schools of thought stated above may contend that their propositions as being most reasonable. The Dictum of Lord Hailsham in *Rew (INFANT)* reported in 1971 AC 682 is very apt. "Two reasonable persons can perfectly reasonably come to opposite conclusions on the same set of facts without forfeiting their title to be regarded as reasonable."

6. Having in mind the views of two schools thought it is to be stated that as long as no efforts are made to improve and expand the public transport system as long as metro projects remain a pipe dream it goes without saying that two wheelers continue to dominate the roads.

7. The petitioners contend that Section 129 is beyond the legitimate scope of Entry 35 List III, Sch. VII as it does not deal with Motor Vehicles but with user of Motor Vehicles and if the main purpose of the provision is to provide a degree of protection from injury in the event of accident and of protection from injury arising through the accident is the avowed purpose of the provision it is difficult to see a reasonable classification in keeping other Motor Vehicle users of the road away from benefits. The petitioners contend that the cases of head injuries are more with users of three or four wheeler Motor Vehicles and that even pedestrian road user or a cyclist would suffer from head injury through an accident and as such imposition of restraints on the user of two wheeler vehicles results in the restraint on freedom of movement of the individuals and the same is unconstitutional. The petitioners further submit that the first proviso to Section 129 would itself operate to deny validity to main provisions because of patent discrimination resting on factors of religion and that it is not open to argue that

facts patently unequal are capable of being taken by law as equal since a cloth turban and a helmet of specified strength against impact as being obviously unequal.

(a) The petitioners contend that Rule 230 partakes the character of subordinate legislation and the operation of the same could not travel beyond enabling provisions and S. 129 of the Act and the same is bad by virtue of granting exemption to riders of two wheelers who belong to particular religious faith.

(b) That rule goes beyond the enabling provision in requiring 3 adhesive type scripts of not less than 2 cm. x 13 cms. fixed horizontally at the back of head gear and further requiring that it must have I.S.I. Mark.

(c) Rule has no bearing on protection against injury in the event of accident and cannot prevent accident and as such it smacks unreasonableness and being a subordinate legislative power cannot alter or override the policy of enabling Act itself as the Section 129 does not make any exceptions in favour of any class of motor vehicles.

(d) Rule suffers from vice of excessive delegation. Petitioner in W.P. 27205/93 has produced two reports Annexures B and C. Reports have focussed the point that preventive measures must be adopted instead of making wearing of Helmet compulsory.

As against the abovesaid contentions, Sri. C.V. Kumar, Government Advocate contends that Section 129 comes under Chapter VIII of Motor Vehicles Act which envisages factors relating to control of Traffic. Rule not only stands the test of reasonableness but also the object for which the Section 129 has been enacted and the same cannot be termed as suffering from excessive subordinate Legislation. Experience gathered and data collected reveal that two wheeler riders are more vulnerable and they are least protected among all the Motorists because the entire body is exposed when a vehicle hits two wheelers or when its riders apply brakes, he is usually thrown off and when the body hurtles down, the head being the heaviest part is first to hit the ground and that need to formulate compulsory rules and to enforce the same has arisen due to increasing number of two wheelers having contributed to the agonising tragedies on the roads and on account of increasing number of casualties on roads and that there is nothing wrong in enforcing the Act and Rules which are beneficial to the two wheeler riders. It is contended that life and limb are precious and that person wanting to live healthy life all in one piece will have to put up with some amount of inconvenience. It is also submitted that Head without hair can function, but the head with a damaged brain would make the entire body defective since brain injuries are not easily detected, treated or cured unlike other bodily injuries and that a brain injury even if healed can leave a short term or life long disability in any part of the body and that any initial discomfiture would gradually get adjusted. Section 129 and a Rule made therein not only withstand the test constitutionality but also reasonableness therein.

8. The Supreme Court in *State of Madras Vs. V.G. Row*, has laid down the criteria that should be adapted by the Courts to find out as to whether restrictions imposed in a given case are reasonable or not at page 200, the relevant observations being:--

"It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time should all enter into the judicial verdict. In evaluating such elusive factors and forming their own conception of what is reasonable, in all the circumstances of a given case, it is inevitable that the social philosophy and the scale of values of the Judges participating in the decision should play an important part, and the limit to their interference with legislative judgment in such cases can only be dictated by their sense of responsibility and self-restraint and the sobering reflection that the Constitution is meant not only for people of their way of thinking but for all, and that the majority of the elected representatives of the people have in authorising the imposition of the restrictions, considered them to be reasonable."

8A. Sri C. V. Kumar, contends that restrictions imposed on two wheeler riders to wear helmet compulsory are designed in the public interest and conditions imposed are not only reasonable but also have clear nexus to the object namely public interest.

Further, it is argued that the first proviso to Section 129 of, the Act also stands to reasonableness, since State has to protect religious faith, belief and practices, and as far Sikhs are concerned it is established that wearing of Turbans as being one of their religious practices in vogue, and it is not open for the petitioners to challenge the same as being discriminatory until they establish that wearing of Turban as being also one of their religious faith, belief and practices and they being discriminated. Further, he contends that the Supreme Court while dealing on this aspect in *Ajay Cants Case* (reported in *Ajay Canu Vs. Union of India (UOI) and Others*, has observed, that we do not think that there is any fundamental right against any act aimed at doing some public good. Even assuming that the impugned Rule has put a restriction on the exercise of a fundamental right under Art. 19(1)(a) such restriction being in the interest of the general public is a reasonable restriction protected by Art. 19(5) of the Constitution" upheld the validity of Rule 498A of Andhra Pradesh Motor Vehicles Rules. It is argued that Rule 498A of Andhra Pradesh Motor Vehicles Rules also contained a proviso as similar to the proviso as found in Section 129 of the Act. Rule 498A of the Andhra Pradesh Motor Vehicles Rules, inter alia, reads:--

"Crash Helmets to be worn

No person shall drive a motor cycle or a scooter in a public place unless such driver wears a crash helmet. Provided that nothing in this rule shall apply to a person professing Sikh Religion and wears a Turban."

Since the Supreme Court has declared Rule 498 as not infringing fundamental rights, it is not open for the petitioners to contend that the same as being violative of Constitutional rights. In view of the aforesaid pronouncement it is not open to the petitioner to challenge the proviso to Section 129 of the Act as being unconstitutional, unreasonable.

9. Sri Ko. Chennabasappa, Senior Coun- sel submits that ratio of the case relied on by the Government has to be distinguished since in that case, the Supreme Court did not apply its mind specifically about the proviso to Section 129 of the Act and further the question of testing the legislative provisions on the touch stone of Art. 14 was not before the Supreme Court.

Sri Ko. Chennabasappa, with his Scholastic expertise has cited various excerpts touching upon the true meaning of Religion, basic concept of Religious belief and practices and contended that wearing of head Turban by Sikhs cannot be attributed to Chief Articles of faith and discipline of Sikh community. To sum up the basic religious tenets of Sikhs, Sri Ko Chennabasappa placing reliance on various articles written on Sikh Religion contended that the following as being articles of faith and discipline of sikhs.

- (1) Belief in one immortal God,
- (2) Worshipping of idols, cemeteries, trees and spirits prohibited,
- (3) Helping the poor and protecting those who sought their protection.
- (4) No distinction of caste or class or profession and deeming themselves as members of one family.
- (5) Practice of using and wearing Arms, not to flee before enemy but to be prepared to die for the cause of truth and justice.
- (6) Leading pure life of chastity, moderation discipline, benevolent actions are dedication to God and Nation.
- (7) Central Committee of Khalsa as being final authority relating to religious precepts.
- (8) Teachings of ten Gurus embodied in the Granth as to be religious text.
- (9) Any five sikhs meeting and giving initiation to others and to take them to their fold.
- (10) Women to have all consolations of religion which men enjoy.
- (11) Living in by Honest Labour and shunning the company of idlers and wicked men and all sikhs to be Known as Singhs (Lions).

Further he invites that even in Art. 25 of the Constitution of India, Explanation No. 1 permitted wearing and carrying of Kirpans by Sikhs and not that of Wearing of Turban as being one of the faiths of Sikh profession and Sikh religion and as such Rule 230 of Karnataka Motor Vehicles Rules must be tested on the touchstone of Art. 14 of the Constitution of India. What is to be noted is that Art. 25(1) of the Constitution itself makes freedom of Religion subject to public order, morality, health and other provisions of Part III of the Constitution. One need not go into the details of concept of religion for purpose of understanding the Rule 230 of Karnataka Motor Vehicles Rules, except to state that religion belongs to a matter of faith and belief.

10. It is suffice to state that one fundamental principle that must weigh the consideration of the courts while applying basics of the Art. 14 of the Constitution is that it is designed to prevent any person or class of persons from being singled out as special subject for discrimination and hostile legislation. It does not take from the State the power to classify either in the adoption of Police Laws or tax laws or eminent domain laws but permits them the exercise of wide scope of discretion and nullifies what they do only when it is without any reasonable basis. Mathematical nicety and perfect equality are not required. Similarly, not identity of treatment is enough. If any state of facts can reasonably be conceived to sustain in classification, existence of statement of facts must be assumed. One who assails a classification carries the burden of showing that it does not rest upon any reasonable basis.

11. The petitioners have not placed any materials to show that their religious faith, belief and practice ordain them from wearing Head turban and as such first proviso to Section 129 of the Motor Vehicles Act as made applicable to Sikhs as being discriminatory. Suffice to state that proviso to Section 129 of the Act deals Sikhs as a class by themselves on account of special circumstances and reasons applicable to them and as such it is not obnoxious and open to charge of denial of equal protection on the ground that it has no application to others as contended by the petitioners. Further it is to be presumed that legislature has understood and correctly appreciated the needs of its own people and its law have been directed to problems made manifest by experience and exceptions have been made on adequate grounds. Variety of two wheelers now available in the markets is amazing Motor Minipads, Mopeds, Scooters, Motor Cycles. Public use two wheelers because of their availability and fuel efficiency in the context of inadequate mass transportation infrastructure.

12. It is in every one's knowledge that people have settled for two wheelers to solve their commuting and it is in every one's comprehension as to how the zooming down the pot holed roads for the mere sheer joy of zipping down a highway with the wind whipping through one's hair, chances of running over a truck or bus, hitting a stray dog, horse or cow and flying in to nearer electric poles, and footpaths used by pedestrians, no matter how hard headed or soft headed, rider would be dead en route to NIMHANS or other medical centres.

petitioner has to realise that it is not just the law but it is ones life. Wearing of Helmet is made compulsory for purposes of protection from injury, heat and pollution Rules and Regulations alone cannot be panacea since human error is considered as the major cause for road accidents. Accusations regarding the causes of the accident as being due to carelessness, drunkenness, rashness, negligence, over spending arrogance, incompetence etc. are of secondary line of thinking since often riders might not be there as a living witness to explain the causes. In this modern society one should not speak through, rules and regulations but must visualise their moral commitment to the Society at large. Rider must realise that woman who is widowed because of the road accident may be his own wife or vice versa.

Legislative measures taken by the Government in making wearing of helmet compulsory with a view to minimise the injuries resulting from the accident having in view of the statistics collected, reports of eminent Doctors of Pioneering Research Institute of NIMHANS, and the experience gathered through these years cannot be vitiated as being unreasonable and of excessive legislation or of excessive delegated legislation and violative of constitutional rights.

13. Regarding the contention that rule making of wearing of Helmet compulsory as having no nexus to object envisaged in Section 129 of the Act it is to be stated that it is settled law that Legislature is not prevented from making a classification amongst objects, articles or things which are similar or comprehended in a single class provided classification is rational and there is nexus between the classification and the object sought to be achieved thereby. Rule in making wearing of helmet compulsory to two wheeler riders is based on rational basis taking into consideration the alarming proportion of the road accidents involving two wheeler riders, policy is not only rational but is also in the interest of larger public interests, since statistics revealed that more number of two wheelers are on the road having in view of transport problems and economics of the cost. The Rule making authority has merely given effect to the intention of the legislature whereby separate treatment to two wheeler has been provided to save riders, from accidents resulting in fatal injuries. If the rules could be validly framed then there is no reason as to why rule making authority could not be held to have the power to frame a rule which is in consonance with the legislative intent as envisaged under the Act. Any classification which is founded on an intelligible differentia having a rational relation to the purpose of the Act concerned being permissible classification does not violate Art. 14 of the Constitution and it is well settled and it is difficult to think as to how the State Government has exceeded its power in making the impugned rule.

14. It is to be stated that I am in agreement with the contentions advanced by the State which on principle is in pari materia with the propositions of school of thought who are in favour of rules, making wearing of helmet compulsory. Regarding the contentions raised by the petitioners as to the constitutional invalidity of the legislative measures incorporated in the Motor Vehicles Act and

the Rules framed thereunder regarding wearing of protective headgear u/s 129 of the Act and Rule 230 of the Karnataka Motor Vehicles Rules 1989 and the notification issued therein it is to be stated that similar provisions under A.P. Motor Vehicles Rules 1964 were challenged as being violative of fundamental rights as guaranteed under Art. 19(1)(a) and Art. 21 of the Constitution of India and further the relevant rule as being illegal and ultra vires of the Motor Vehicles Act came up before the Supreme Court and in *Ajay Canu Vs. Union of India (UOI) and Others*, the Supreme Court upheld the validity of Rule and further observed that the same as being not violative of any fundamental rights, and restrictions imposed for wearing helmets compulsory by two wheeler riders as being not only reasonable but also actuated in the interest of general public and the same being not injurious to health. The relevant observations of the Supreme Court are found at Paragraph 13 of the decision cited above. Para 13 reads:

"The next attack to Rule 498A and to the impugned notification is based on the fundamental right of a citizen. It is submitted that the compulsion for the wearing of a helmet by the driver of a two-wheeler vehicle is an infringement of the freedom of movement of such a driver, as guaranteed by Art. 19(1)(d) of the Constitution and that such compulsion by Rule 498A interfering with the freedom of movement not having been made in accordance with the procedure established by law is also violative of Art. 21 of the Constitution. The contention does not at all commend to us. Rule 498A ensures protection and safety to the head of the driver of a two-wheeler vehicle in case of an accident. There can be no doubt that Rule 498A is framed for the benefit, welfare and the safe journey by a person in a two-wheeler vehicle. It aims at prevention of any accident being fatal to the driver of a two-wheeler vehicle causing annoyance to the public and obstruction to the free flow of traffic for the time being. It is difficult to accept the contention of the petitioner that the compulsion for putting on a headgear or helmet by the driver, as provided by R. 498A, restricts or curtails the freedom of movement. On the contrary, in our opinion, it helps the driver of a two-wheeler vehicle to drive the vehicle in exercise of his freedom of movement without being subjected to a constant apprehension of a fatal head injury, if any accident takes place. We do not think that there is any fundamental right against any act aimed at doing some public good. Even assuming that the impugned rule has put a restriction on the exercise of a fundamental right under Art. 19(1)(d), such restriction being in the interest of the general public is a reasonable restriction protected by Art. 19(5) of the Constitution. As R. 498-A has been in accordance with the procedure established by law, that is, in exercise of the rule making power conferred on the State Government under S. 91 of the Act, as discussed above, the question of infringement of Art. 21 of the Constitution does not arise. The contention of the petitioner that R. 498-A and the impugned notification dated July, 1986 issued by the Commissioner of Police in exercise of his powers under S. 21(1) of the Hyderabad City Police Act infringe the fundamental right of the petitioner under Art. 19(1)(d) and Art. 21 of the Constitution is devoid of merit and is rejected."

15. Regarding the other contention of the petitioners as to their having acquired enforceable right by virtue of the doctrine of legitimate expectation, it is to be stated that the same do not arise in view of the outweighing public interest as against their assertion of individual rights and further the impugned notification as being not arbitrary. In Food Corporation of India Vs. M/s. Kamdhenu Cattle Feed Industries, the Supreme Court has dealt on this aspect at paras 7 and 8 of its judgment, the details being:--

"Para 7 : In contractual sphere as in all other State actions, the State and all its instrumentalities have to conform to Art. 14 of the Constitution of which non-arbitrariness is a significant facet. There is no unfettered discretion in public law : A Public authority possesses powers only to use them for public good. This imposes the duty to act fairly and to adopt a procedure which is "fairplay in action. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision-making process in all State actions. To satisfy this requirement of non-arbitrariness in a State action, it is therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but provides for control of its exercise by judicial review.

Para 8 : The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process. Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent."

16. For the reasons stated above, the contentions raised by the petitioners do not stand to reason and as such writ petitions are dismissed accordingly.

Sriyuths : Sylendra kumar and C. V. Kumar, CGSC & GP., are permitted to file their memo of appearance in 4 weeks.

17. Petitions dismissed.