

(2005) 04 BOM CK 0124

In the Bombay High Court

Case No : Writ Petition (PIL) No's. 3 with 259 of 2005

Kewal Semlani

APPELLANT

Vs

Commissioner of Bombay and Others

RESPONDENT

Date of Decision : 27-04-2005

Acts Referred:

Citation : (2005) 4 BomCR 25

Hon'ble Judges : Bhandari Dalveer, C.J;Bobde S.A., J

Bench : Division Bench

Advocate : A.A. Kumbhakoni, Asso. A.G. in PIL No. 259/2005, Party in Person, for the Appellant; K.K. Singhvi, Sr. C., P.A. Purandare, for respondent No. 1, Niranjana Pandit, A.G.P. for respondent No. 2 in (PIL) No. 3 and for respondent No. 2 in (PIL) No. 259/2005, R.M. Savant, in (PIL) No. 3 and for respondent No. 2 in (PIL) No. 259/2005, for the Respondent

Judgement

1. On oral request of the petitioners-parties-in-person, the Director General of Police, Maharashtra State, is impleaded as respondent No. 4 in suo motu Writ Petition No. 3 of 2005 and respondent No. 5 in Writ Petition (PIL) No. 259 of 2005.

2. These petitions have been filed in this Court alleging the extremely poor condition of roads in Mumbai leading to many accidents and inconvenience to Mumbaitees.

3. Pursuant to the directions of this Court, on 26th April, 2005, regarding the respondents preparation to meet coming monsoon, Santosh Korlekar, Deputy Chief Engineer (Roads) (E.S.) has filed a detailed affidavit. It is mentioned in the affidavit that number of meetings have been held of the Assistant Commissioners and the concerned Road Department Staff for pre-monsoon measures to be taken with regard to roads of Mumbai. Accordingly, it has been decided to repair bad patches and potholes on roads prior to monsoon by using departmental staff working under the Assistant Commissioners of the individual wards and contractual agencies working under the Zonal Dy. Chief Engineer (Roads). It is

mentioned in the affidavit that proposal for appointment of the contractual agencies are before the Standing Committee. The trenches taken by the various utility agencies will be reinstated prior to the monsoon by the contractual agencies working under the Assistant Commissioners of the respective wards. The Standing Technical Advisory Committee on roads in Greater Mumbai had suggested some measures for attending pot-holes. The said suggestions have been incorporated in the tenders invited for attending pot-holes. The tenders have been finalised and the proposal for appointment of contractor is before the Standing Committee. Immediately after the proposal is approved, the work orders will be issued to the contractors who will also attend the potholes and carry out pre-monsoon repairs. It is also indicated in the affidavit that short-term measures and the long-term measures as recommended by the Standing Technical Advisory Committee would be implemented in the regular redevelopment contract of the roads as already mentioned in the earlier affidavit. Since the monsoon is approaching fast, we direct the Standing Committee to take the decision regarding appointment of the contractors as expeditiously as possible and, in any event, within two weeks from today.

4. Regarding speed breakers, it is mentioned that location of the speed breakers are authorised by the Traffic Police Department on its own or on suggestions received from the public to the Traffic Police Department or on suggestions received from the public to the Traffic Department of the Municipal Corporation of Greater Mumbai. It is also mentioned that directions had been issued for removal of unauthorised speed breakers and consequently several unauthorized speed breakers had been removed from time to time. It is mentioned that a circular had been issued by the Chief Engineer (Roads and Traffic) to Assistant Commissioners of all the wards directing them to give a status report of the speed breakers indicating the number of speed breakers authorized by Traffic Police Department and the other speed breakers which have been constructed without permission and out of them how many unauthorised speed breakers (constructed in contravention of specifications) have been removed.

5. Mr. Singhvi, the learned Senior Counsel appearing for the Corporation has produced the guidelines on the provision of speed breakers for control of vehicular speeds on minor roads prepared by the Indian Roads Congress. It is mentioned in the report that development of suitable recommendations on speed breakers had been under the consideration of the Traffic Engineering Committee of the Indian Roads Congress for some time. The Traffic Engineering Committee in their meeting held at New Delhi on 12th June, 1987, has revised the draft prepared by the University of Roorkee and finalised by IRC Secretariat and Member Secretary, Traffic Engineering Committee in the light of the comments received. The revised draft was considered by the Specifications and Standards Committee in their meeting held on 9th November, 1987. In the light of the modifications and based on the comments, the draft was revised and approved by the Executive Committee. The draft was placed before the Council in their 21st meeting held at Trivandrum on 6th December, 1987. The Council thereafter

approved the document except for some minor changes which have since been incorporated.

6. In the report it is mentioned that the roads of different categories and under different situations are designed for designated design speeds at which vehicles could travel with convenience and safety. At certain locations, such as approaches to manned and unmanned level crossings, sharp curves, congested/accident-prone locations, residential streets, etc. control of speed may become necessary to promote orderly traffic movement and improved safety. Speed breakers, where permitted to be installed, provide visual, audible and tactile stimuli which alert drivers and cause them to slow down. These can have different heights, lengths, spacings, signs, etc. It is mentioned that no particular design was suitable for all the types of vehicles using the road.

7. A speed breaker is a hump surface across the roadway having a rounded shape with width greater than the wheel base of most of the vehicles using the road. An ideally designed hump should satisfy the requirements viz. (i) there should be no damage to vehicles nor excessive discomfort to the drivers and passengers when passing at the preferred crossing speed, (ii) the hump should not give rise to excessive noise or cause harmful vibrations to the adjoining buildings or affect the other residents of the area, and (iii) above the design speed, a driver should suffer increasing level of discomfort (but without losing directional control and without any vehicle damage) depending on the extent through which design speed is exceeded.

8. It is mentioned that use of speed breakers was justified primarily under the following three categories, viz. (i) T-intersections of minor roads with rural trunk highways, characterised by relatively low traffic volumes on the minor road but very high average operating speed and poor sight distances. Such locations have a high record of fatal accidents and as such a speed breaker on the minor road is recommended; (ii) Intersections of minor roads with major roads, and mid-block sections in urban areas where it is desirable to bring down the speeds; and (iii) Selected local streets in residential areas, school, college or university campuses, hospitals, etc. Also in areas where traffic is observed to travel faster than the regulated or safe speed in the area.

9. The other places where the speed breakers may be used include :

(i) Any situation where there is a consistent record of accidents primarily attributed to the speed of vehicles e.g. When hazardous sections follow a long tangent approach;

(ii) approaches to temporary diversions;

(iii) approaches to weak or narrow bridges and culverts requiring speed restriction for safety;

(iv) on the minor arms of uncontrolled junctions and at railway level crossings;

(v) sharp curves with poor sight distances; and

(vi) places of ribbon development, where road passes through built-up areas and vehicles travelling at high speeds are a source of imminent danger to pedestrians.

10. After considering the entire recommendations, the Indian Roads Congress has suggested that speed breakers are formed basically by providing a rounded (of 17 metre radius) hump of 3.7 metre width and 0.10 metre height for the preferred Advisory crossing speed of 25 km/h for general traffic. It is mentioned that more humps be constructed at regular intervals depending on desired speed and acceleration/deceleration characteristics of vehicles and that the distance between one hump to another can vary from 100 to 120 metres centre to centre.

11. The pattern of placement of speed breakers depends upon the location and the type of treatment used. Some of the suggested locations have already been indicated in the preceding paragraphs. At "T" intersections speed breakers should be installed on minor roads or perpendicular arms about 10 metres away from the inner edges of major roads. Proper sign boards and markings are required to be provided at such locations. On sharp curves, available sight distances guide the placement and number of speed breakers. For other situations the Engineer-in-Charge should use his ingenuity and judgment.

12. To check the tendencies of drivers to avoid speed breakers and using shoulders, the Indian Roads Congress recommended that the speed breakers should be extended through the entire width of shoulder supported on a proper base. For undivided carriageways, speed breakers should invariably be extended over the entire carriageway width including shoulders.

13. On bridges, speed breakers should not be provided. However, where frequent accidents have been reported or the bridges are on curves or they are narrow, either approach must have two speed breakers each.

14. The Indian Roads Congress has also given specification for speed breakers. According to it, speed breakers are laid by first marking the location of hump on the pavement and marking indents in this area for proper bonding. Surface is then cleared for all dust and loose particles and a tack coat applied. Forms of requisite heights, shape and width are then placed, and hot premixed bituminous material is poured to the required depth and shape. Forms are then lifted and the surface finished to required shape and edges rounded by trowel. The premixed material should be well compacted before opening to traffic. Allowance should be made for compaction, and irregularities should be corrected using bituminous materials having fine aggregate or by scrapping, as necessary. The material is then allowed to cure before opening to traffic. The guidelines provided by the Indian Roads Congress have to be implemented strictly. Consequently we direct:

(i) That in the entire State of Maharashtra henceforth all the speed breakers constructed shall be in accordance with the specification indicated in the guidelines given by the Indian Roads Congress. All other speed breakers which

are not in consonance with the guidelines shall be demolished and new speed breakers be constructed strictly in accordance with the guidelines and with the prior approval of the police.

(ii) The drivers shall be warned of the presence of the speed breakers by posting suitable advance warning signs.

(iii) Speed breakers should be painted with alternate black and white bands to give additional visual warning. For better night visibility, it is desirable that the markings are in luminous paint/luminous strips. Embedded cat-eyes can also be used to enhance night visibility.

(iv) The Director General of Police, Maharashtra State, to give instructions" to Police Commissioners and Superintendents of Police of urban and rural areas in the entire State so as to ensure that the speed breakers are not constructed without their permission and the speed breakers are to be constructed in consonance with the guidelines provided.

(v) The Director General of Police and concerned Municipal Commissioners/ Councillors in charge of Municipal Corporations/Councils to ensure that the offending speed breakers are demolished and new speed breakers are constructed in consonance with the guidelines provided by the Indian Road Congress.

(vi) The National Highways Authority shall also abide by the guidelines provided for them by the Indian Roads Congress within the State of Maharashtra.

15. We direct the Director General of Police, Maharashtra State, to submit a report to this Court within six weeks from today. List this matter again for further directions and to ensure compliance of our order on 20th June, 2005.

16. On our request, Mr. Kumbhakoni, the learned Associate Advocate General, has appeared in this case and he undertakes to communicate this order to the Director General of Police, Maharashtra State, for compliance.