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**(2007) 02 MP CK 0078**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No's. 2693 and 2637 of 2002**

M.P. High Court Bar Association

APPELLANT

Vs

State of M.P. and others

RESPONDENT

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**Date of Decision : 21-02-2007**

**Acts Referred:**

Constitution of India, 1950 — Article 215  
Motor Vehicles Act, 1988 — Section 71

**Citation : (2007) 3 MPLJ 400**

**Hon'ble Judges : A.K. Mishra, J**

**Bench : Single Bench**

**Advocate :** A.M. Trivedi and Umesh Pandey, Vijay Pandey and Ms. Nirmala Raikwar, for the Appellant; Yogesh Dhande and Arpan Shrivastava for Respondent No. 6, Om Namdeo, Government Advocate for Respondent Nos. 1 to 5 and Amit Pandey for Respondent No. 7-Municipal Corporation, for the Respondent

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## **Judgement**

Arun Mishra, J.

These writ petitions have been filed by M.P. High Court Bar Association and District Bar Association. Prayer has been made in W.P. No. 2693/02 to cancel the permits of Mini Buses plying on the routes within the Jabalpur city and the Mini Buses may be permitted to be plied on the routes of outer skirts of Jabalpur. Prayer has been made to permit only smaller vehicles to be plied within the city of Jabalpur. Prayer has also been made to ensure that Mini Buses are plied with electronic speed governors with proper stops and to cancel the permits of Mini Buses involved in road accidents. Prayer has further been made for a direction to respondents to issue identity cards, uniforms and name plates to the Drivers, Conductors and other staff of Mini Buses. In spite of the prayer made, respondents have not considered it, hence, writ petition has been filed.

In W. P. No. 2637/02 filed by District Bar Association, Jabalpur, prayer has been made to check number of the Mini Buses on the routes timings, etc.

On behalf of respondents in W. P. No. 2637/02 following proposals were made:

After due deliberations in the joint meeting, it has been decided to submit the following proposals to the Road Safety Committee of Jabalpur to decrease the density of vehicular traffic in the city. The meeting of the Road Safety Committee is scheduled for 20-5-2002. The proposal are as under:

(i) Both Presidents of High Court Bar Association and the District Bar Association shall be invited as Hon"ble Guests to participate and make their valuable suggestions regarding the regulation of traffic and safety measures.

(ii) Proposals to reduce the number of Mini Buses plying on Route No. 1 Khamharia to Tilwaraghat, as the Route No. 2 Ranjhi to Tilwaraghat, Route No. 3 Vehicle Madai to Tilwaraghat, Route No. 4 Khamaria to Gwarighat becomes a common route for all mini buses between the portion from Panehra Petrol Pump on the turning of road going to Vehicle Factory to Narrow Gauge Railway Crossing after Shastri Bridge (Chhoti Line Phatak). To achieve this half of the traffic shall terminate at the bus stand. This will reduce the number of vehicles by almost 50% plying on these routes.

(iii) Proposal to reduce the pressure of vehicular traffic on Route Nos. 1, 2 and 3 for taking adequate measures to divert the traffic to other routes where the pressure is less. From the existing permit-holders, proposals for one to one permit i.e. starting point to the terminus with one stoppage only shall be given to certain number of buses which shall be identified as Blue Line Express Service. For existing permit holders (other than Express Blue Line Service) in future will not have the common stoppage and there shall be variation in the stoppages.

(iv) Proposal to provide with adequate halting place with a railing so that during the halt at the bus stops, which have already been identified, so that there should not be any traffic jam on the road. LIC, Rotary Clubs, Lions Club and NG Os or prominent individuals shall be requested to provide and construct adequate shade with or without facility of drinking water at the stoppage. (v) Proposal for adequate action against unauthorized overtaking or plying with excessive speeds or if any Mini Bus halts on the road other than the permitted specified Bus Stop on the route.

(vi) Proposals for construction of new bus stands and Transport Nagars at the outer periphery of the city as per provisions of the sanctioned Master Plan shall be submitted for the consideration of the Road Safety Committee, which will go in a long way to reduce the density of vehicular traffic in the city.

(vii) Proposals for issuing the appropriate directions to the Consulting Engineering Services (India) Pvt. Ltd. New Delhi to complete the Comprehensive Traffic and Transportation for city of Jabalpur urban area to complete the on going survey and submit the report at the earliest. After the submission of the report, request the Municipal Corporation, Jabalpur to implement the report expeditiously.

(viii) Proposals to the Road Safety Committee to take effective steps for removal of encroachments from the roads so that the traffic can flow smoothly.

(ix) Proposals to provide adequate traffic policemen at sensitive points with a wireless handset to regulate the traffic and remained in contact with the mobile force and the control room.

Minutes of the meeting have also been placed on record.

An application for intervention has been filed by Rampal submitting that in removal of encroachments impartiality has to be observed.

Respondent No. 6 in W. P. No. 2693/02 has submitted that there is no traffic hazard caused by Mini Buses, Government and Municipal Corporation have not improved the condition of roads. Number of Mini Buses is not more. District Advisory Board Committee has suggested several measures to be followed. In Jabalpur city no routes have been formulated as required under Motor Vehicles Act. The Mini Buses are catering the need of the travelling public, hence, petition be dismissed.

Following interim order was passed by this Court on 17-5-2002 in W. P. No. 2693/2002:

17-5-2002.

In these writ petitions, W.P. No. 2693/2002, W. P. No. 2775/2002 and W.P. No. 2637/2002, grievance has been made by the petitioners, i.e. High Court Bar Association, District Bar Association and the Jabalpur Tempo Owners and Drivers Association as to unduly, unguided driving of Mini Buses within Jabalpur. The question raised is that there is no route specified and such stage carriage vehicles can ply only on the route specified considering the requirement of Section 71 of Motor Vehicles Act, 1988. Sub-section (3)(a) of Section 71 provides that the State Government has to take into consideration number of vehicles which are permitted to be plied on the road condition and other relevant matters before permitting the plying of such stage carriage vehicles within the city. Petitioners submit that there is no notification issued considering the requirement and permits have been issued to unlimited number of vehicles without due consideration to the road condition, which is causing day to day accident. It is also the grievance raised that the Mini Buses are causing numerous accidents. They are run in high speed. Speed governors were earlier fixed when the representatives of the Bar was called in the meeting held on 31-12-2001, but, only for a day or two. Mini Buses operated with the requisite speed governor, thereafter they have been removed and now the Mini Buses are being plied in unlimited number and densely populated narrow road causing immense problem to the general public, safety hazard and there are no prescribed halting places and they are plying in most hazardous manner. Happily, the respondents have come forward with certain proposals considering the menace of the problem they have proposed that the Presidents of High Court Bar Association and District Bar

Association are to be invited to participate and to make suggestions regarding the regulation of traffic and safety measures. There are certain proposals which are made; as to reduce the number of Mini Buses plying on route No. 1 to 4. Another proposal has been made to divert the traffic to other routes where the pressure is less. Another suggestion has been made to provide the halting places with railing and to take positive steps about unauthorized overtaking or plying with excessive speeds. It has also been proposed to construct new bus stands and transport nagars at the outer periphery of the city as per provisions of the sanctioned Master Plan. Another proposal is to obtain report from the Consulting Engineering Services (India) Pvt. Ltd. New Delhi to complete the Comprehensive Traffic and Transportation for city of Jabalpur urban area to complete the on going survey and submit the report at the earliest. Another proposal is to the Road Safety Committee to take effective steps for removal of encroachments from the roads so that the traffic can flow smoothly. Proposal has also been made to provide adequate traffic policemen at sensitive points with a wireless handset to regulate the traffic and remain in contact with the mobile force and the control room.

Considering the above said scenario, it is necessary to issue certain directions which may be carried out by the respondents forthwith:

- (1) No Mini Bus shall be allowed to ply without Speed Governor.
- (2) The halting places be specified within a week from today and the Mini Buses shall be allowed to halt only at such places which are specified by the respondents.
- (3) Let a decision be also taken to reduce the number of Mini Buses plying on route No. 1 to 4 within 7 days from today. It is directed that the number should be reduced having regard to the number of vehicles plying in the area and number of Mini Buses should be so limited so that there is no overtaking of the Mini Buses by other Mini Bus takes place. Decision be also taken as to proposal No. 3 to divert the traffic on Route Nos. 1, 2 and 3 within 15 days. An effort be also made as early as possible to put railing on the halting places and if any Mini Bus operates without speed governor or found plying with excessive speed, licence be suspended forthwith. A drive be also initiated within 7 days by the respondents to remove unauthorized encroachment.

Presidents of High Court Bar Association and the District Bar Association have come forward with generous proposal that they are going to provide Bus-stand, railing and other structures at their costs at one place each, which may be selected by them. Submission is appreciated.

It is also submitted by the petitioners that unruly behaviour is meted out by the conductors as well as by the drivers and they have been indulging in unlawful activities and act of Marpeet on number of occasions, even with the Bar members and misbehaved with the women also. Hence, it is further directed that driver and conductors should be asked to ply the vehicles in uniform putting their

name on the batch on their front pocket on chest. Identity card may also be issued by the respondents. Same be complied within 15 days.

Hence, the traffic committee is directed to furnish report in 15 days from today of compliance of direction issued and steps with respect to other proposal which have been made in the application filed by respondents and the positive steps taken to implement them. Compliance report be filed within two weeks through A.G.

List on 2-7-2002.

Return may also be filed in the meanwhile by the respondents."

A three member committee was appointed by this Court, report has been submitted by the Committee on 4-9-2002 in which it has been mentioned that:

#### Availability of Vehicles on Maharajpur Bus Stand Route and Karmeta Route

It appears that the movements of Commission was leaked out by some interested persons to the operators/drivers of vehicle plying in the subject routes. Therefore, not a single mini bus plying in the above route could be found plying. Therefore, no verification could be done, on the above route. In this route no sign board of bus stand or Bus Stops were found. On enquiry from the general public it was revealed that Mini Buses do not have ascertained bus stops and these vehicles are stopped at any place wherever, the commuters are seen by the driver/conductors of such vehicles, which was expressed to be most dangerous.

#### Speed Governors

The commission carried out thorough checks of speed governors by entering into the Mini Buses which could be found by the Commission. On check it was found that in all the Mini Buses speed governors fitted but in the number of buses the same were made ineffective/non-operative by breaking open the seals by the concerned drivers.

#### Halting place

A very few halting places were assigned and signboards were erected, but it was observed that the operator/drivers of these buses did not adhere to the discipline and buses were found stopped at any place wherever, the commuters could be found. This was observed to be a traffic hazard.

#### Reduction of Mini-Buses

This aspect could not be analyzed as the figures about earlier Mini Buses and Mini Buses plying now could not be ascertained. However, it was found that bus drivers have inherent tendency to make a race with other bus by overtaking in total disregards to the safety of the public on road.

#### Railing at Halting Place

No such railing was found at any place. No figures were available whether any license has ever been cancelled by RTO or not for over-speeding. But it was observed that over-speeding of these Mini Buses has not been controlled effectively.

#### Dress Code

The dress code directed by this Hon"ble Court has not been implemented strictly. In some of the buses driver/conductors found wearing blue shirts but pants/trousers were found to be of other colours. There was absolutely no impression gained by the commission that dress code has ever been implemented. It appears that effective regular checks by police/RTO were badly lacking.

Thereafter following order has been passed on 13-9-2002 by this Court:

13-9-2002. Shri Adarsh Muni Trivedi, learned counsel for the petitioner.

Shri R.S. Jha, Dy. A.G. for Respondents No. 1 to 5. Shri A.G. Dhande, Sr. counsel with Shri Saurabh Tiwari, Adv. for Respondent No. 6.

Shri Mohd. Ali, Adv. for the intervenor.

Shri Samir Beohar, Adv. for the Municipal Corporation Respondent No. 7.

Amendment impleading the Municipal Corporation has not been carried out.

Let it be carried out during the course of the day.

Perused the report of the Commission filed by three Advocates of this Court namely; Shri Dipak Pendharkar, Shri Wajid Hyder and Shri Prashant Awasthy. It is apparent from the report that the various directions passed by this Court in order dated 17-5-2002 have been flouted and no serious efforts have been made by the authorities concerned to comply with direction on true spirit. Report indicates several disturbing features. First and important feature is non-carrying out the directions issued by this Court with respect to "speed governor". Considering the public safety and accidents which have taken place in the past in which precious human lives have been lost, this Court issued the directions that the mini buses to be plied only with speed governor within permissible speed. The report mentions details of checking of the mini buses. There are 84 vehicles were checked. It has been mentioned in the report that:

(A) the following vehicles are found without speed governors:

- (1) MP-20E 9987 (21) MP-20E 9805
- (2) MP-20E 9721 (22) MP-20E 9702
- (3) MP-20E 7811 (23) MP-20 9932
- (4) MP-20 9830 (24) MP-20 9691
- (5) MP-20E 9704 (25) MP-20E 9832

(6) MP-20E 9958 (26) MP-20E 96996  
(7) MP-20 1217 (27) MP-20E 9497  
(8) MP-20F 9462 (28) MP-20E 9832  
(9) MP-20E 6032 (29) MP-20 0256  
(10) MP-20E 9574 (30) MP 2022  
(11) MP-20C 9907 (31) MP-20E 9932  
(12) MP-20 6059 (32) MP-20E 9702  
(13) MP-20E 9817 (33) MP-20E 9813  
(14) MP-20E 9930 (34) MP-20G 2022  
(15) MP-20C 498 (35) MP-20 9590  
(16) MP-20E 9309 (36) MP-20 9789  
(17) MP-20E 9547 (37) MP 9772  
(18) MP-20E 0380 (38) MP-20 9345  
(19) MP-20E 9860 (39) MP-20E 9532  
(20) MP-20 9992 (40) MP-20E 9549

(B) In the following vehicles the speed governors have been found to be defective:

(1) MP-20A 4247 (7) MP-20E 9987  
(2) MP-20E 9775 (8) MP-20E 9945  
(3) MP-20E 9599 (9) MP-20E 9917  
(4) MP-20E 0654 (10) MP-20E 9770  
(5) MP-20E 6015 (11) MP-20E 9426  
(6) MP-20 9516 (12) MP-20E 9510

Respondents are directed to stop the abovesaid vehicles which are plied without speed governors within 48 hours and to furnish compliance report before this Court. In case speed governors are not corrected in the above said vehicles mentioned in category (B) within three days from today. Their plying shall also be stopped by the respondents. The above vehicles be allowed to be plied only after the speed governors are fitted/corrected. If speed governors are not corrected within this period the category (B) vehicles shall also be stopped within two days thereafter after lapse of three days.

It is also disturbing feature mentioned in the report that many of the mini buses" drivers did not stop the vehicles and ran away. This reflects the inability of the

authorities to stop the mini buses and it was their duty to stop them so as to enable the Commissioners appointed by this Court to check the vehicles. They carried the dignity of Court. It is apparent that the respondents authorities have not extended full co-operation in the matter which was expected of them.

It is also pointed out in the report that at Khamaria that no bus "stoppage" is provided at Mai Godam Chowk. Muddy railing are broken, traffic signals are broken at Maharajpur, parking of vehicles is not on the stop. There is no proper "stand" provided near Medical College. At Medical Square also no proper "stoppage" is provided.

The respondents are directed to remove the deficiencies pointed out in the report of the Commissioners in the report with respect to stoppage within 10 days from today.

Buses were found stopped at any place wherever they desire. Railing has not been provided at halting places. Another directions issued by this Court have also not been carried out. Let respondents authorities put the signboards railings at the halting places within 10 days from today. As mini buses are being plied without speed governors, though this Court issued categorical directions vide order dated 17-5-2002, it is clear that directions are not being complied with. Even the respondents have not complied with directions of "speed governors". Such an act is not permissible considering the public safety and there is violation of other directions also, let proceedings for contempt be separately registered against respondents 2 to 7. Issue notice to the respondents Nos. 2, 3,4,5, 6 and 7 also as to why they should not be proceeded with under the Contempt of Courts Act and under Article 215 of the Constitution of India for violating the directions issued by this Court. List on September 27th, 2002.

A report was submitted by respondents on 22-10-2002 in W. P. No. 2693/02, decision taken by Traffic Safety Committee dated 27-7-2002 (R/I) has been placed on record. Steps are being taken for improving the traffic conditions and for regulating the Mini Buses. Steps have been taken against violators, bus stops have been fixed. An application has been filed on 9-12-2002 on behalf of petitioner alleging overloading in the vehicles and encroachments made at important places, just opposite Bargi Hills Colony, etc. Municipal Corporation has also filed a report of the steps taken by it and other respondents have also filed a report of checking of speed governors on 11-7-2003.

Following order was passed by this Court on 3-8-2006:

3-8-2006.

copy of which has been supplied to petitioners" counsel. They have prayed for time to go through the report.

Let further report be submitted within a period of four weeks of the action taken by the respondents for improvement of the situation. It is submitted at Bar that Mini Buses are not stopping at the places where they are supposed to stop, they

are being run in most hazardous manner and permanent stops have also not been established. Let a report in this regard be submitted how many Mini Buses are plying in total and their stoppage which are prescribed by the respondents and what are the steps taken by respondents to ensure that Mini Buses stop only at the stops which are provided to them not at other places. Report as to checking of speed governors of all mini buses be also submitted, whether speed governors are in order or not, pressure horns are also being used by Mini Buses which are not permissible. Let detailed report in these regards be submitted and action be taken in accordance with law, be intimated to this Court within four weeks.

List, as prayed, after four weeks on September 15th, 2006. " Thereafter following report has been filed on 14-9-2006:

The answering respondents in compliance of the order dated 3-8-2006 have taken effective steps to improve the traffic of the city of Jabalpur. The answering respondents have taken following steps in compliance of the order dated 3-8-2006:

i) As per the order of this Hon"ble Court total number of mini buses which are plying within the city of Jabalpur permit and their route wise description is annexed herewith as Annexure R/1. The information relating to declaration of stops of these buses is filed herewith as Annexure RJ2,

ii) All the traffic police personnels have been directed to take necessary and effective steps so that mini buses must stop at a place which has been earmarked for their stoppage. The traffic police from 1-8-2006 to 10-9-2006 has undertaken necessary checking in this regard and the necessary action was undertaken against the mini buses who are violating the above condition. Copy of the document showing the action taken against the erring mini buses is filed herewith as Annexure R/3. The respondents have undertaken the checking of speed governors and report in this regard is filed herewith as Annexure R/4.

iii) The individuals who have taken permits for operation of buses within Jabalpur city and are not operating their buses have been issued notices for cancellation of their permits. List of number of such persons is filed herewith as Annexure R/5.

iv) The respondents before issuance of new permits are requiring the concerned individual to submit an affidavit that they will follow all the rules and will also keep speed governors in working condition and only after submission of such an affidavit new permits are being issued.

v) In compliance of orders passed by this Hon "ble Court, it was found that no mini bus is having pressure horn.

Shri A.M. Trivedi, Sr. Advocate, Shri Umesh Pandey, Shri Vijay Pandey and Ms. Nirmala Raikwar appearing for petitioners have submitted that the directions issued time to time by this Court have not been carried out by respondents in pith and substance, still a lot is required to be done. There is necessity to issue a

direction to respondents not to allow plying of Mini Buses in city of Jabalpur and also in busy localities, mini buses should be permitted to be plied only in outer skirts, proper halting places have not been provided, railing at the halting places and electronic speed governors in the mini buses have not been fitted, pressure horns are also being used which causes noise pollution.

Shri Om Namdeo, learned GA appearing for Respondents 1 to 5 has submitted that directions issued time to time by this Court has been carried out in pith and substance, he has assured this Court that whatever is necessary and still required to be done shall be considered by respondents so as to improve the situation.

Shri Yogesh Dhande and Shri Arpan Shrivastava, learned counsel appearing for Respondent No. 6 and intervenor have submitted that number of mini buses have already been substantially reduced and permits are not being issued by respondents.

It is submitted on behalf of Municipal Corporation by Shri Amit Pandey that whatever is required to be done by Corporation shall be done.

In the circumstances of the case, respondents are directed to consider and take a decision within a period of three months as to plying of mini buses in outskirts of Jabalpur, on which routes the mini buses are to be plied considering the public safety and various other aspects and provisions of Motor Vehicles Act, 1988. Let a reasoned decision be taken by the concerned committee within three months. Decision be also taken as to number of mini buses to be permitted to be plied on a particular route. Respondents also to consider prescribing of uniform identity card, etc. to the staff of mini buses. Respondents to ensure that no pressure horn is used in mini buses and no overloading takes place. Other aforesaid directions issued time to time in these petitions be also carried out in pith and substance within a period of four months.

In view of above, writ petitions stand disposed of.

Order accordingly.