

(2005) 05 GUJ CK 0031

In the Gujarat High Court

Case No : Special Civil Application No. 13308 of 2004

Suo Motu

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 09-05-2005

Acts Referred:

Motor Vehicles Act, 1988 — Section 129

Citation : (2005) 05 GUJ CK 0031

Hon'ble Judges : P.B. Majmudar, J;Anil R. Dave, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant; Manisha Lavkumar, Asst. Govt Pleader for Respondent Nos. 1-6, Jitendra Malkan, for Respondent No. 7, Amrita M. Thakore, for Respondent No. 8, Maulin R. Raval and H.S. Munshaw, for the Respondent

Judgement

A.R. Dave, J.—By an order dated 8th October 2004 passed by this Court, cognizance was taken by this Court of growing number of vehicular accidents taking place in the city of Ahmedabad and other parts of the State. By the said order, suo-motu action has been initiated by this Court to see that vehicular traffic is regulated properly so as to see that accidents are averted and citizens do not lose their lives due to accidents.

2. It appears that in the past, a committee had been appointed to make suggestions which can be used for controlling occurrence of accidents. A report of the said committee has also been placed on the record of this case.

3. Upon perusal of the report and upon hearing the learned advocates appearing in the matter, it appears that looking to the circumstances prevailing at present, certain interim directions are required to be given to the respondent government authorities so that some prompt actions can be taken for regulating vehicular traffic so as to see that occurrence of accidents is reduced.

3.1 It has been reported that several encroachments are made on public

streets / roads. Because of substantial increase in population and number of vehicles, the vehicular traffic has increased enormously in the last few years whereas width of most of the roads has not been increased because of several limitations like constructions put up on both sides of the roads. In the circumstances, the encroachments further hinder vehicular traffic.

3.2 In our opinion, roads should be made available for effective use by removal of all encroachments on all public streets and roads. It has been submitted by the learned advocates that the concerned authorities are not prompt and vigilant in the matter of removal of all encroachments, and, therefore, effective width of the roads has been substantially decreased, which results into accidents and inconvenience to vehicular traffic. Because of the said inconvenience, the average speed of vehicles is also substantially reduced which also results into pollution as the vehicles are driven in lower gears, which not only consumes more fuel but also results into more emission of harmful gases.

3.3 We also feel that so as to see that the roads are effectively used, sides of the roads should be cleaned in such a manner that there is no dust or dirt thereon so that the entire road can be effectively used for vehicles.

3.4 As far as possible, where the roads are not having sufficient width, road dividers should not be unduly broad. Ofcourse, it is for the authorities to decide what should be the width of the road dividers, but we are sure that the authorities shall see that the width of the road dividers is as less as possible so that more area of the road can be effectively used for vehicular traffic.

3.5 It has been found that vehicles are often not parked properly and that hinders the vehicular traffic. It should be seen by the authorities that people are educated properly so that vehicles are parked away from the centre of the road, i.e. they should be parked near the border of the road or very close to the foot path where there is foot path, or much away from the road, if it is a highway or where parking place is available.

3.6 Moreover, very often encroachments are made and parking is allowed near corners of public streets, and that causes much hinderance to the vehicular traffic because at all junctions more space is required for vehicular traffic and if encroachments are made near road junctions or vehicles are permitted to be parked near the junctions, further hinderance would be caused to the vehicular traffic.

3.7 It has also been reported that very often vehicles are parked on highways after sun-set without parking lights. Even bullock carts, camel carts and other such vehicles which are not "motor vehicles" are plied without any reflectors. In the absence of reflectors and more particularly when such vehicles are parked on or near the highway, accidents take place because other drivers at times cannot see such vehicles at night from distance.

3.8 It has also been reported that whenever multi storied buildings or

commercial complexes are constructed, the builders or occupants of such buildings approach the authorities with a request that the provisions with regard to keeping parking place for vehicles in their buildings or complexes be dispensed with, and at times such permissions are granted by the Municipal Corporations and other local authorities, including Urban Development Authorities. When such leniency is shown to the builders, it results into traffic congestion because those who are either residing in such buildings or visiting such buildings park their vehicles on public streets near such premises. This results into much congestion and traffic problems. Looking to the said facts, the public bodies which are responsible for giving sanction to building plans should not dispense with the provisions with regard to providing parking place in the residential buildings or commercial complexes.

3.9 It has also been found in the course of discussion that several accidents, where two wheelers are involved, result into death of drivers / pillion riders because of non-use of protective head gears [helmets] though there is a provision with regard to wearing of protective head gears [helmets] in section 129 of the Motor Vehicles Act, 1988 [hereinafter referred to as the Act]. In our opinion, it is the duty of the authorities to see that the provisions of sec. 129 of the said Act are duly enforced not only on Highways but also when riders are plying two wheelers in the city limits.

3.10 In the course of hearing of this petition, at an earlier occasion, Deputy Commissioner of Police [Traffic], Ahmedabad City Police, had remained present before this Court and had stated that with the available number of police personnel for controlling and regulating the traffic, the police force was doing the best it can. From the details about number of police personnel given to this Court, we feel that looking to the increased traffic, number of policemen deployed in the traffic branch of the city of Ahmedabad is very less. We feel that adequate number of policemen should be appointed in traffic branch in all cities so that traffic can be controlled/regulated in a more effective manner.

4. In view of the aforesaid facts, which emerge upon perusal of the report and upon hearing the learned advocates, we give the following interim directions.

4.1 All encroachments which are on public streets or which are on highways should be removed immediately. Due care should be taken to see that the encroachments which are made near corners of the roads or near the traffic junctions or traffic circles should be removed as soon as possible so as to see that such area of the road is made available for use of vehicular traffic and not for encroachers.

4.1.1 A particular authority / officer should be made responsible for removal of such encroachments. In our opinion, the concerned police Inspector and the concerned officer of the local authority, under whose jurisdiction such encroachments are made, should be held responsible, if the encroachments are not removed within a reasonable period. Serious note should be taken by the

government, if it is found that the encroachments are not removed within the jurisdiction of a particular officer. Thus, for removal of encroachments, police inspector of the concerned police station, in whose jurisdiction the area is covered, and the concerned officer of the local authority, who has been entrusted with the work of removal of such encroachments should be held responsible. It is directed that both the aforestated authorities, shall jointly make efforts to see that all encroachments are removed as soon as possible. All local authorities shall entrust the said work to certain officers so that responsibility of a particular officer can be easily determined, if the encroachments are not removed.

4.2 Necessary direction for ensuring parking of vehicles in a particular manner should also be given to the police authorities. It should be seen that vehicles are parked absolutely away from the centre of the road so that more portion of the road is available for vehicular traffic. Any person parking a vehicle in an irregular manner, which is near the centre of the road or parked in an irregular and careless manner which obstructs the vehicular traffic, should be strictly dealt with in accordance with law. For the aforesaid purpose also, the police inspector of the concerned area should be made responsible.

4.3 Similarly, it shall be ensured by the concerned police Inspector that there is no parking within reasonable distance from the junctions of public streets, where relatively traffic is heavy. It should be seen that vehicles are not parked within a particular distance from traffic junctions and traffic circles, and boards indicating such restrictions of parking should be properly displayed.

4.4 It is directed that the public bodies, which are responsible for giving sanction to building plans, should not dispense with the provisions with regard to providing parking place in residential and commercial complexes.

4.5 It shall also be ensured by the police officers in charge of Highway Patrolling that vehicles which are not "Motor vehicles", such as bullock carts, camel carts, cycles etc., which are moving on the Highways are having reflectors so that at night such vehicles are noticed by drivers of other vehicles. They shall also see that the provisions with regard to the Act and rules made thereunder with regard to parking lights and reflectors are strictly enforced. They shall continuously monitor and ensure that the vehicles have proper reflectors and/or parking lights.

4.6 It shall also be ensured that any vehicles parked at night on highways keep their parking lights on. Strict action should be taken in accordance with law if vehicles are found to have been parked on highways at night without parking lights on.

4.7 The State shall direct the concerned authorities, including the police authorities, to see that the provisions of sec. 129 of the Act, with regard to wearing of head gears [helmets] are strictly enforced. It may not be possible for the State to implement the said provision immediately, as the said provision is not being strictly enforced at present. It is therefore directed that due publicity shall be given by the State to the provisions of section 129 of the Act that while

driving two wheelers, both, the driver as well as the pillion rider should wear head gear. After due publicity, with effect from 1st June 2005, the government authorities shall become strict with regard to enforcement of the said provisions. Necessary directions in this behalf shall also be given to the police force so that they may also ensure that the drivers and pillion riders of two wheelers comply with the said requirement of wearing headgears.

4.7.1 We have been informed by the learned Assistant Government Pleader that at present the provisions with regard to use of head gear [helmet] are strictly followed in respect of two-wheelers which are driven on Highways. We see no reason for not enforcing the said provisions even in the city/town limits because sec. 129 of the Act does not provide that the said provisions should be made applicable only to those who are driving two wheelers on Highways. We, therefore, direct the Government authorities to see that the provisions of sec. 129 are enforced properly.

4.8 The State is directed to consider whether sufficient number of policemen are allocated to the traffic branch in all major cities for regulating and monitoring vehicular traffic. If the strength of policemen working in traffic branch is not adequate, needful shall be done to increase the strength of policemen, working in traffic Branch so as to see that the accidents are avoided by proper regulation of traffic.

4.9 We also feel that wherever it is possible to have separate lanes for slow moving vehicles including two wheelers, three wheelers and fast moving four wheelers, appropriate arrangement shall be made by drawing lines for having separate lanes for different vehicles so that smooth movement of traffic can be ensured.

5. The aforesaid directions shall be complied with as soon as possible in its true spirit.

6. The State shall give due publicity to the contents of this order so that more safety measures can be taken even by people themselves so that occurrence of accidents can be avoided.

7. Registry is directed to send a copy of this order to all the respondents forthwith.

8. S.O to 1.7.2005 for reporting compliance of this order, and for further orders, if necessary.