

Reg. Post.

No. EDN-H (21)A(1) PS-14/2017-Court Case-L
Directorate of Higher Education
Himachal Pradesh
Tel.No:-0177-2653120, Ext: 234, E-mail:-genbr@rediffmail.com
Fax: 0177-2812882

To Dated: Shimla-171001 the October, 2017
All the Deputy Director of Higher Education,
Himachal Pradesh.

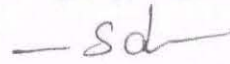
Subject: - CWP No.-1516/2017-Dr. Nitin Vyas Vs State of H.P.

Memo:-

This office has received a letter bearing No. EDN-B-E(5)-7/2017 dated 22-09-2017 from the Principal Secretary (Edu.) to the government of Himachal Pradesh on the subject cited above.

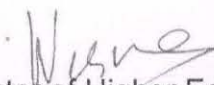
In the above-mentioned Civil Writ Petition, the Hon'ble High Court of Himachal Pradesh has passed order on dated 19-07-2017, the copy of which alongwith copy of the directions passed by Hon'ble Supreme Court of India in M.C. Mehta Vs Union of India is also enclosed here for your persual, guidance and for strict compliance.

You are therefor, directed to scrupulously go through the judgments/orders/directions passed by the Hon'ble Courts and direct all the schools, especially the schools situated in Shimla and other Urban areas in the State to strictly follow the orders/directions/guidelines in letter and spirit. Failure to adhere to the guidelines/orders/directions of the Hon'ble Courts shall be construed as Contempt of Court and shall be at your own risk and peril.
Treat it most urgent being a Court Matter.


Jt. Director of Higher Education(C)
Himachal Pradesh
October, 2017

Endst. No. Even Dated: Shimla-171001 the,
Copy to:-

1. The Principal Secretary (Education) to the Govt. of Himachal Pradesh Shimla-2 w.r.t. his letter No. EDN-B-E(5)-7/2017 dated 22-09-2017 for information pleases.
2. The Incharge, I.T. Cell, With the Direction to upload the same on the Departmental website.
3. Guard file.


Jt. Director of Higher Education(C)
Himachal Pradesh

4160
26/9/17

Immediate
Court Case

No. EDN-B-E(5)-7/2017
Government of Himachal Pradesh
Department of Higher Education

From

The Pr. Secretary (Edu.) to the
Government of Himachal Pradesh

To

1. The Director, Higher Education,
Himachal Pradesh, Shimla-171001.
2. The Director, Elementary Education,
Himachal Pradesh, Shimla-171001.

Dated Shimla-171002

22/09/2017

Subject:-

CWP No. 1516/2017-titled as Dr. Nitin Vyas V/s State of
H.P.

Sir,

I am directed to invite your attention to letter No. EDN(D)-
1/461/2017 dated 5-9-2017 received from the Deputy Secretary (Edu.) to the Govt. of
H.P. which is addressed to the you and copy thereof endorsed to this department as
well as the photocopy of proceeding of the review meeting held on 6-9-2017 at
under the Chairmanship of Deputy Commissioner, Shimla, H.P. on the subject cited
above and to request you to take further necessary action in the matter immediately.

Yours faithfully,

Joint Secretary (Edu.) to the
Government of Himachal Pradesh

Endst No. As above

Encl: As above

14 6132

Legal

S.A. B. I. N. G.

2-9-2017

Proceedings of the review meeting held on 6.9.2017 at 3 P.M. Under the Chairmanship of Sh. Rohan Chand Thakur, IAS Deputy Commissioner, Shimla in order to comply the directions given by the Hon'ble High Court on 17/08/2017 in CWP No. 1516/2017 titled as Dr. Nitin Vyas Vs State of HP

The list of participants is Annexure-A

At the very outset, chairman welcomed all the participants and apprised that present meeting has been convened to review the progress of the issues discussed in the previous meeting held on 18.8.2017 in compliance with the directions passed by the Hon'ble High Court of HP in CWP No. 1516/2017 titled as Dr. Nitin Vyas Vs State of HP regarding traffic congestion on roads during school hours and ways to reduce such congestion.

In apropos to the previous meeting the representative of the school submitted the detailed report in tabulated form as to what mode of transportation is taken by the student .The mode of conveyance of each school as submitted by them was discussed in detail and it transpired that 37% of the student prefer walking to the school and approximately 5% of the students are escorted by presents in their private cars. The tabular data as discuss is as under:-

Sr. No.	Name of School	Pvt. Bus	Govt. Bus	Pvt. Car		Taxi	walking		Walking Total	Grand Total.	Walking %	One child Pvt. Car.	Net score
				One child	More than one child		Escorted	Un-Escorted					
1.	Dayanand Public School, The Mall Shimla.	295	107	212	124	402	316	218	534	1674	32%	13%	19
2.	Loreto Convent Tara Hall.	196	292	58	113	883	142	136	278	1820	15%	3%	12
3.	Shimla Public School, Shimla	102	11	36	21	246	202	34	236	652	36%	6%	30
4.	St. Edward's School	328	140	230	65	966	89	81	170	1899	9%	12%	-3
5.	DAV Sr. Sec. School, Lakker Bazar, Shimla	568	251	125	188	142	432	408	840	2114	40%	6%	34
6.	DAV Sr. Sec. Public School, New Shimla.	315	158	38	-	992	557	550	1107	2610	42%	1%	41
7.	DAV, School Sanjauli.	36	05	20	16	38	686	60	746	861	87%	2%	85
8.	St. Thomas School, Shimla	227	58	29	36	105	160	92	252	707	36%	4	32
9.	Monal Public School, Sanjauli.	35	30	05	06	13	273	465	738	827	89%	1%	88
10.	Convent of Jesus & Mary, Shimla.	225	96	70	64	1143	115	110	225	1823	12%	4%	08
11.	Sacred Heart Convent, Dhalli, Shimla.	70	31	26	51	249	384	252	636	1063	60%	2%	58
12.	Saraswati Paradise International Public School.	458	06	07	02	64	132	237	369	906	41%	1%	40
13.	FCI Chalet Day School, Shimla	58	23	18	06	06	113	37	150	261	57%	7%	50
14.	Himalyan International School, Chharabra, Shimla -12	87	20	-	-	-	-	-	-	107	0	0	0
15.	Auckland House School for Boys, Shimla	73	22	46	22	326	221	62	283	772	37%	6%	31
16.	Auckland House School for girls, Shimla	91	66	64	63	437	247	84	331	1052	31%	6%	25
17.	Chapslee School Shimla.	120	189	33	79	278	247	127	374	1447	35%	3%	32
18.	Swarn Public High School, Tuti Kandi	19	17	6	23	26	200	47	247	338	73%	2%	71
	Total	3303	1522	1023	879	6316	4516	3000	7516	20559	37%	5%	32

(53) The chairman directed the school representative to focus on ways to reduce the dependency of the student coming by the private vehicles to the school that too alone. Further directions were given to motivate the parents to use the concept of car pooling so as to reduced the congestion on the road during the school hours. Chairman gave directions to the school authorities to introduce the concept of traffic wardens by involving the parents / senior students to check the problem of traffic congestion during the peak level of traffic.

The representative of the school gave certain suggestions with regard to solving the problem in pursuance to the directions of the Hon'ble High Court. They suggested that:

- (a) Firstly, regular meeting with the parents shall be held so as to motivate them to use the concept of car pooling.
- (b) Secondly, some school representatives suggested that traffic constables should be invariably deployed during the school hours to handle the rush of traffic.
- (c) Thirdly, it was also suggested that illegal/ideal parking in and around schools should be discouraged and punitive action should be taken against them by the local police.
- (d) Fourthly, it was suggested that yellow lines /parking spaces needs to be identified near school to prevent traffic congestion.
- (e) To encourage children living in a one kilometre radius to walk.

It was further directed that progress on these issues shall be monitored with in a gap of fortnight.

Meeting ended with a vote of thanks to and from the chair.

Additional District Magistrate (L&O),
Shimla, District Shimla (HP)

dated 19.9.17

Endst. No. As above 725
Copy forwarded to:-

1. The Principal Secretary (Home) to the Govt. of Himachal Pradesh for information please.
- ✓ 2. The Principal Secretary, (Education) to the Govt. of Himachal Pradesh Shimla-2 for information please.
3. The Divisional Commissioner, Shimla Division, Shimla-2 for information please.
4. The Superintendent of Police Shimla for information and necessary action.
5. All the individual concerned for information and necessary action.

Additional District Magistrate (L&O),
Shimla, District Shimla (HP)

21/9

B. Ch. S.O. Edu.

21/9 R. K.

4166
26/9/17

Immediate
Court Case

No. EDN-B-E(5)-7/2017
Government of Himachal Pradesh
Department of Higher Education

From

The Pr. Secretary (Edu.) to the
Government of Himachal Pradesh

To

1. The Director, Higher Education,
Himachal Pradesh, Shimla-171001.
2. The Director, Elementary Education,
Himachal Pradesh, Shimla-171001.

Dated Shimla-171002

22/09/2017

Subject:-

CWP No. 1516/2017-titled as Dr. Nitin Vyas V/s State of
H.P.

Sir,

I am directed to invite your attention to letter No. EDN(D)-
1/461/2017 dated 5-9-2017 received from the Deputy Secretary (Edu.) to the Govt. of
H.P. which is addressed to the you and copy thereof endorsed to this department as
well as the photocopy of proceeding of the review meeting held on 6-9-2017 at
under the Chairmanship of Deputy Commissioner, Shimla, H.P. on the subject cited
above and to request you to take further necessary action in the matter immediately.

Yours faithfully,

Joint Secretary (Edu.) to the
Government of Himachal Pradesh

Endst No. As above
Encl: As above

14 6132

Legal

A.B. N. C.

26/9/2017

3615
30/8/17

No.EDN(D)1-461/2017
Government of Himachal Pradesh,
Department of Education(D).

From

The Addl. Chief Secretary(Education) to the
Government of Himachal Pradesh, Shimla-171002.

To

1. The Director of Higher Education,
Himachal Pradesh, Shimla-171001.
2. The Director of Elementary Education,
Himachal Pradesh, Shimla-171001.

Dated:Shimla-171002 the 29th August, 2017.

Subject:- CWP No.1516/2017-titled as Dr. Nitin Vyas V/s State of H.P.

Sir,

I am directed to invite your kind attention to letter No.EDN-B-E(5)-7/2017 dated:22-8-2017 of Joint Secretary(Edu.) to the Govt. of HP which is addressed to you on the subject cited above and to request you to kindly take necessary action in the matter after examining the same to comply with the directions of Hon'ble HP High Court. immediately as already requested and compliance report be sent to this Department. immediately as soon as possible through special messenger.

A copy of letter No.CWP No.1516/2017-25847 dated:19-8-2017 received from the Dy. Advocate General, HP along with its enclosure is also enclosed herewith.

This may kindly be given TOP PRIORITY being HP HIGH COURT MATTER.

Yours faithfully,

(Ved Prakash Charg)
Under Secretary(Education) to the
Govt. of Himachal Pradesh.
Phone No. 01772620672.

Endst. No. As above.
Copy is forwarded to:-

Dated:Shimla-171002 the 29th August, 2017.

1. The Deputy Advocate General, HP for information.
2. The Joint Secretary(Education) to the Govt. of HP w.r.t. their above referred letter for necessary action.

A.B.S. / M.C.
30/8/17

138894

29 AUG 2017

loged

Under Secretary(Education) to the
Govt. of Himachal Pradesh.

116

TIME BOUND
High Court matter

CWP No. 1516/2017 - 25847
Department of the Advocate General,
State of Himachal Pradesh, Shimla.

21/8
590 72 789

Dated:- Shimla, the 19.08.2017

To

1. The Chief Secretary, to the Govt. of H.P., Shimla.
2. The Principal Secretary (Home) to the H.P., Shimla.
3. The Principal Secretary (Education), to the Govt. of H.P.
4. The Secretary Transport, Government of H.P., Shimla.
5. The Dy. Commissioner Shimla Distt. Shimla H.P.
6. The Dy. Commissioner Solan Distt. Solan, H.P.
7. The Dy. Commissioner, Bilaspur, Distt. Bilaspur H.P.
8. The Dy. Commissioner, Hamirpur, distt. Hamirpur H.P.
9. The Dy. Commissioner, Kangra, at Dharamshala H.P.
10. The Dy. Commissioner Chamba, Distt. Chamba, H.P.
11. The Dy. Commissioner, Una, Distt. Una, H.P.
12. The Dy. Commissioner, Mandi, Distt. Mandi, H.P.
13. The Dy. Commissioner Kullu, distt. Kullu H.P.
14. The Dy. Commissioner, Sirmour at Nahan, Distt. Sirmour, H.P.
15. The Dy. Commissioner, Kinnaur, at Reckongpeo, H.P.
16. The Dy. Commissioner, Lahaul & Spiti, Distt. Lahaul & Spiti H.P.

21-8-17
Acs (Edn)
Dr. Seep (Home)
Dr. Seep (T&T)


Subject: CWP No. 1516/2017- titled as Dr. Nitin Vyas V/s State of H.P.

Sir/Madam,

It is intimated that the above mentioned CWP firstly appeared before the Hon'ble High Court on 19.07.2017 when the Hon'ble High Court pleased to pass a detail order on the basis of the judgment passed by the Hon'ble Supreme Court of India in CWP No. 13029/1985 titled M.C. Mehta V/s Union of India (1978)8 SCC 700. Thereafter the matter again appeared before the Hon'ble High Court on 17.08.2017, when the Hon'ble High Court pleased to impleaded all the Deputy Commissioners of the State as party respondents and has issued the directions to all the respondents to file an affidavit(s) strictly in terms of the order passed by the Hon'ble High Court on 19.07.2017. The aforesaid affidavit(s) are to be filed within a period of one week and matter is ordered to be listed again on 24.08.2017. Copy of order dated 19.07.2017 is enclosed herewith.

Treat it as most urgent

Yours faithfully,


(J.K. Verma)
Dy. Advocate General
Himachal Pradesh, Shimla.
Mob.No:-94184-51674

Encls:- As above

7/8
Seep

28/8

Sh. Jyoti

(17)

CWP No. 1516 of 2017

19.7.2017 Present: Ms. Sheetal Vyas, Advocate, for the petitioner.

Mr. Shrawan Dogra, Advocate General with Mr. Anup Rattan and Mr. Romesh Verma, Additional Advocate Generals and Mr. J.K. Verma, Deputy Advocate General, for respondents No.1 to 3.

Mr. Sunil Mohan Goel, Advocate vice Mr. Raman Jamalta, Advocate, for respondents No.4 and 5.

Ms. Ritta Goswami, Advocate, for respondent No.6.

Mr. Looneesh Kanwar, Advocate, for respondent No. 7.

CMP No. 5352 of 2017

Allowed and disposed of.

CWP No. 1516 of 2017

Notice. Mr. J.K.Verma, learned Deputy Advocate General, Mr. Sunil Mohan Goel, Ms. Ritta Goswami and Mr. Looneesh Kanwar, Advocates, waive notice on behalf of respective respondents. Notice, returnable for **16.8.2017**, be issued to respondent No.8, on taking steps within one week.

2. An important issue with regard to safety of children, using various transport vehicles for travelling to schools, stands raised by the petitioner. Hon'ble Supreme court, way back in the year 1997, while dealing with similar problem in Delhi, had issued certain directions in WP No. 13029/1985 titled **M.C.Mehta v. Union of India** (1978)8 SCC 700.

3. We find that under the Motor Vehicles Act, the transporter, the vehicle owner and the Police are under an obligation to ensure safety of passengers, moreso, that of school

children. In fact, directions for taking all safety measures with respect to school children, also stand issued by the Central Board of Secondary Education.

4. Shimla, predominantly, has been a pedestrian town. It is only in the recent past that one finds, perhaps more out of fashion than need, that children are travelling to school in vehicles. Also, parents, without endeavouring to share the vehicle on community basis, perhaps, taking it as a status symbol and with pride, take their children in their private vehicles to the schools. And all this, despite making the child sit in the vehicle(s) for long hours, purely on account of heavy vehicular traffic, causing undue, avoidable and unnecessary anxiety. Perhaps, public, school authorities, parents and the children need to be educated and sensitized of the advantages and benefits of health, if only the child is made to walk, wherever so permissible, to the school, rather than spend long hours in traffic jams.

5. It is not uncommon to notice long queues and traffic jams on vehicular roads, during school hours. It is here that the onus also lies upon the civil society; management(s) of the educational institutions; District administration and the parents. Apparently, in this regard, nothing has been done so far. Perhaps, need to do so has arisen, moreso, at this point of time.

6. It is in these circumstances, we direct respondent No.2, 3 and 5, to take up the issue with the stakeholders and also take appropriate steps in ensuring complete

679

implementation of the directions, issued by the Apex Court, from time to time, complying with statutory Rules and Regulations and also the directions issued by the School Regulatory Bodies.

Let affidavit(s), in response of the aforesaid, as also in response to the petition, be filed within a period of three weeks.

List on 16.8.2017.

(Sanjay Karol)
Acting Chief Justice

(Sandeep Sharma)
Judge

July 19, 2017
(Vikrant)

3583
29/8/17

Immediate
Court Case
Time Bond

No. EDN-B-E(5)-7/2017
Government of Himachal Pradesh
Department of Higher Education

From

The Addl. Chief Secretary (Edu.) to the
Government of Himachal Pradesh

To

1. The Director, Higher Education,
Himachal Pradesh, Shimla-171001.
2. The Director, Elementary Education,
Himachal Pradesh, Shimla-171001.

Dated Shimla-171002

22/8/2017

Subject:-

CWP No. 1516/2017-titled as Dr. Nitin Vyas V/s State of
H.P.

Sir,

I am directed to forward herewith the photocopy of order dated 16-8-2017 by the Hon'ble High Court of H.P. on the subject cited above and to request you to take further necessary action in the matter as per the orders of Hon'ble High Court, H.P. Photocopies of CWP No. 1516/2017-titled as Dr. Nitin Vyas V/s State of H.P. received in this regard is also enclosed herewith. Compliance in the matter be reported within one day.

Yours faithfully,

~~dy of t~~

Nitpal

Joint Secretary (Edu.) to the
Government of Himachal Pradesh

Encl: As above

137136

B.Y./NIC

23 AUG 2017

Legal

copy of CWP is not enclosed 24/8/17

3584

29/8/17

No. EDN-B-E(5)-7/2017
Government of Himachal Pradesh
Department of Higher Education

From

The Addl. Chief Secretary (Edu.) to the
Government of Himachal Pradesh

To

1. The Director, Higher Education,
Himachal Pradesh, Shimla-171001.

2. The Director, Elementary Education,
Himachal Pradesh, Shimla-171001.

Dated Shimla-171002

25/8/2017

Subject:-

CWP No. 1516/2017-titled as Dr. Nitin Vyas V/s State of
H.P.

Sir,

I am directed to forward herewith the photocopy of the proceedings of the meeting held under the chairmanship of Sh. Rohan Chand Thakur, IAS, Deputy Commissioner, Shimla in order to comply the directions given by the Hon'ble High Court on 17-8-2017 in CWP No. 1516/2017 titled as Dr. Nitin Vyas Vs State of H.P. circulated vide endst. No. 627 dated 18-8-2017 of the Deputy Commissioner, Shimla, H.P. on the subject cited above for taking further necessary action at your end.

Yours faithfully,

Joint Secretary (Edu.) to the
Government of Himachal Pradesh

Encl:As above

1384/8

28 AUG 2017

Legal

S-1 B-1 M-1-C

Handwritten initials and date

411
21/8/17
High Court Matter

No. Home(A)E(3)-161/2017
Government of Himachal Pradesh
Department of Home (A Section)

From
Pr. Secretary (Home) to the
Government of Himachal Pradesh

To
The Director General of Police,
Himachal Pradesh, Shimla-2.

Dated Shimla-2, the 22nd August, 2017.

Subject:- CWP NO. 1516/2017--- Dr. Nitin Vyas Vs.
State of H.P.

Sir,

I am directed to invite a reference to the subject indicated above and to say that a CWP as indicated above has been filed in H.P. High Court. Subject matter of above CWP relates to transportation of School going Children in Taxies etc. and the petitioner has expressed concern about safety of children / overloading / rash driving etc.

Copies of orders passed by Hon'ble H.P. High Court on dated 19/7/2017 and 17/8/2017 are enclosed for ready reference. Compliance affidavit(s) are to be filed by respective Deputy Commissioners. It is, therefore, requested to kindly issue appropriate instructions to all S.Ps. to provide requisite inputs to concerned Deputy Commissioner(s) in context of point(s) relating to Police department without any further delay.

(12)

It is requested that matter may kindly be accorded priority as next hearing has been fixed for 24/8/2017.

Yours faithfully,

(Mahesh Kumar Bhardwaj)
Joint Secretary (Home) to the
Government of Himachal Pradesh
Ph:01772628506

No. Home(A)E(3)-161/2017 Dated 22/8/2017

Copy to:-

1. Ld. Advocate General, Himachal Pradesh, Shimla-171001 with reference to letter (fax) No. CWP No. 1516/2017-25847-62, dated 19th August, 2017.
- ✓ 2. The Addl. Chief Secretary (Education) to the Government of Himachal Pradesh, Shimla-2.
3. The Pr. Secretary (Transport) to the Govt. of H.P. Shimla-2.

Mahesh
(Mahesh Kumar Bhardwaj)
Joint Secretary (Home) to the
Government of Himachal Pradesh
Ph:01772628506

23/8

JB Edu
S.O. Edu B.

L
24/8
De

Eds
24-8-17
Central Board
Date: 24/8
Competition No. (43)
54073417

Proceedings of the meeting held under the Chairmanship of Sh. Rohan Chand Thakur, IAS Deputy Commissioner, Shimla in order to comply the directions given by the Hon'ble High Court on 17/08/2017 in CWP No. 1516/2017 titled as Dr. Nitin Vyas Vs State of HP.

The list of participants is Annexure-A

At the very outset, chairman welcomed all the participants and apprised that present meeting has been convened to comply with the directions passed by the Hon'ble High Court of HP in CWP No. 1516/2017 titled as Dr. Nitin Vyas Vs State of HP regarding traffic congestion on roads during school hours and ways to reduce such congestion. The following directions were given in the meeting to comply with the orders/directions given by the Hon'ble High Court:

1. All the schools will furnish the following information/Class wise data to this office by Monday evening i.e. 21st August, 2017 or by 22nd August, 2017 (Morning) positively as the affidavit in this regard is to filed by Deputy Commissioner Shimla on 24th August, 2017 in the Hon'ble High Court.

FORMAT
(for providing information)

Private Bus	Govt. Bus	Private Cars		Taxi	Walking	
		One Child	More than One Child		Escorted	Un-Escorted

2. All the Principals will encourage and take steps with the parents to reduce the overloading in the school taxies and will also encourage the Car pooling and walking.
3. The Superintendent of Police and RTO Shimla will take the action under Motor Vehicle Act against overloading in school taxies after 15 days by giving due notice to

44

private taxi operators and shall ensure that directions of the various courts are complied with in letter and spirit. Any lapse in this regard would be brought to the knowledge of Hon'ble High Court.

4. All the Principals will furnish the empirical data to assess the volume of movement of vehicular traffic at their school at least for 15 days and report shall be furnished at the earliest.
5. All the schools will intimate opening and closing timing of their respective schools.
6. All school Principals should furnish report regarding methods to be adopted to reduce traffic congestions during the schools hours and will also propose alternatives to make extra parking space available in the school or its vicinity. Further they shall also submit suggestion and explore possibility to ferry children through public transport especially buses.

At last the Chairman asked the cooperation from all and directed to comply the direction of the Hon'ble High Court of HP in letter and spirit.

Meeting ended with a vote of thanks to and from the chair.

Sd/-

Additional District Magistrate (L&O),
Shimla, District Shimla (HP)

Endst. No. As above 627
Copy forwarded to:-

dated 18/8/18

1. The Principal Secretary (Home) to the Govt. of Himachal Pradesh for information please.
- ✓ 2. The Principal Secretary, (Education) to the Govt. of Himachal Pradesh Shimla-2 for information please.
3. The Divisional Commissioner, Shimla Division, Shimla-2 for information please.
4. The Superintendent of Police Shimla for information and necessary action.
5. All the individual concerned for information and necessary action.

l

Additional District Magistrate (L&O),
Shimla, District Shimla (HP)

22/8

JSLHG

62

23/08

SOC(M)A

24-8

SOC(B)

24/8
Dh Rle

PETITIONER:
M.C.MEHTA ETC.

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 16/12/1997

BENCH:
B.N. KIRPAL, V.N. KHARE

ACT:

HEADNOTE:

JUDGMENT:

THE 16TH DAY OF DECEMBER, 1997

Present:

Hon'ble the Chief Justice
Hon'ble Mr. Justice B.N. Kirpal
Hon'ble Mr. Justice V.N.Khare

Ashok Desai, Attorney General, M.S.Usgeonkar, Additional Solicitor General, Hrish N.Salve, Sr.Adv., Mukul Mudgal, Ms.Indra Sawhney, Deepak Dewan, A.K.Sharma, S.Wasim A.Qadri, A.D.N.Rao, Ms. Niranjana Singh, (P.Parmeswarn) Adv. for (MOEF), Dutta, Hardeep Singh Anand, Shri Narain, Ssndeep Narain, (M.C.Mehta) (NP) In-person, Ms.Seema Midha, S.N.Sikka, D.S.Mehra, (Ms.Anil Katiyar) Adv. for (Min, of Petroleum), D.K.Garg, Sanjeav Pabby., R.K.Maheshwari, Ms.Manju Bharti, R.K.Kapoor, P.Verma, S.K.Srivastava, B.R.Kapur, Anis Ahmed Khan, Vijay Panjwani, (R.Sasiprabhu, Anees Ahmed, Aditi Singh) Adv. for (GAIL), Pradeep Misra, Ms.Niti Dikshit, Sanjay parikh, Kailash Vasdev, Mahabir Singh, Ms. Sushma Suri, C.V.Subba Rao, Ashok Mathur, D.M.Nargolkar, Saharya, Ejaz Maqbool, R.P.Gupta, K.K.Gupta, L.K.Pandey, Upadhyay, S.R. Setia, Satish Aggarwal. Ranjit Kumar, Advs. with them for the appearing parties.

O R D E R

The following order of the Court was delivered:
(with W.P.(C) No.9300/02. W.P.(C) No. 939/96 and W.P.(C) No. 95/97/

After hearing the learned amicus curiae, the Additional Solicitor General and the counsel representing certain other interests, we issue the following further directions, namely.

(1) The figures in relation to issuance of commercial licences show that there is need to verify commercial licences. Which were issued during the period 1993-95. We therefore, direct that all commercial licences issued during the period 1993-95 be re-verified by the Transport Department to weed out all such licences which have been issued without following the Rules.

(2) We are informed that a test has now been prescribed for issuance of new licence. We direct the Transport Department to prescribe a suitable refresher training course as a condition for the renewal of any licence to

rive a heavy vehicle.

(3) The grantees of a permit cannot (without express prior permission). Under the provisions of the Motor Vehicles Act either transfer his permit or to allow some other person to operate a vehicle on this permit. Any such use of permits which really constitutes a trading in permits is a patent violation of the Motor Vehicles Act and the Rules and would render the permit liable to cancellation, apart from other legal consequences. We direct the authorities not to renew any permit which has been or is being used by any person other than the original grantee, without the express prior permission of the grantee.

(4) We direct the Civic Authorities to take necessary steps to remove immediately all encroachments-temporary or permanent - on roads and payments. Which affect the smooth flow of traffic or obstruct the way of pedestrians. Stay cattle and other similar obstructions would also have to be similarly dealt with.

(5) The need for safety of school children travelling in buses requires that such buses be fitted with doors that can be shut. We, therefore, direct that on or after 31st January, 1998. no bus shall be used by an educational institution unless it is fitted with doors which can be closed. No educational institutions shall, after the said date, use a bus if it has an open door.

(6) Similarly, it is essential that, in addition to a driver, there is another qualified person in the bus can attend to the children travelling in the bus. Rule 17 of the Motor Vehicles Rules, 1993 stipulates qualifications, duties and functions of a Conductor. It would be in the interest of safety to require the presence of a qualified conductor on board every bus that is being used by an educational institution. we are told that at present there is a paucity of trained conductors. We, therefore, direct that on or after 30th April, 1998. no bus used by or in the service of an educational institution shall be permitted to operate without a qualified conductor without a qualified conductor being present at all times. a

(7) We are also informed that some schools have Voluntarily requested the parents of their wards to accompany buses so as to ensure that the drivers drive safely and the lives of the children are not out in jeopardy. we commend this action, and direct the education Department to ask all schools including Government and Municipal schools to evolve a similar arrangement as far as possible, so as to ensure that in each bus there is at least one parent present who would be able to oversee the conduct of the driver. This step would do a long way in ensuring that the directions given as well as other safety measures given as well as other safety measures prescribed are complied with in letter and spirit and that the driver drives carefully.

(8) One of the problems, which was been brought to our notice, is the overgrowing of buses. After hearing the views of the Transport Department as well as the Delhi Police (Traffic Wing), we feel it appropriate to direct, that no bus belonging to of in use of any educational institution, shall seat children in excess of 1.5 times its registered seating capacity. Similarly, other modes of public transport, such as TSRs, taxis and other vehicles used for transporting the students of an educational institution should not be permitted to carry children more than 1.5 times they registered seating capacity.

(9) One of the major pollutants identified in the various affidavits as well as in the latest Status Report

filed by the Government, is the TSR (two seater rickshaw using a two stroke engine). We are further informed that although the existing figures of registered TSRs as per the records, is approximately 83,000: the actual number in use is far lesser since some of these permits have bot been cancelled although the vehicles have been scrapped. It would be in the interest of the environment. to freeze the number of TSRs for the present at the level at which they are actually in use in the city. We. therefore direct that there would be no grant of fresh permits in respect of the TSR. save and except by way of replacement of an existing working TSR with a new one.

(10) We direct the police Commissioner to frame appropriate guidelines for regulating processions - religious. Political or otherwise - which tend to obstruct the flow of traffic. These guidelines should be in conformity with the rights of the users of the roads and the exercise of fundamental freedom of other citizens indicated by this Court in this judgment in Communist Party of India ((M) vs. Bharat Kumar and Others. JT 1997 (9) SC 101.

(11) The Union of India is directed to file within two weeks the Action Plan for appointment of private persons to enforce traffic safety laws and confer upon such people suitable powers under the Cr.P.C. as well as under the Motor Vehicles Act. The Union of India would also file its response to the repeated suggestion made by the Traffic Police as well as the Transport Department for augmenting the uniformed force in the city.

(12) There are certain modifications called for in our earlier order dated 20th November, 1997, which we direct as hereunder:

(i) In para A(a), add the following :

"Requirement for installation of speed control devices would also not apply to vehicles operating on All India Tourist Permits issued by the Transport Department. NCT of Delhi".

(ii) In para A(f). the sentence commencing "no bus" and ending with "educational institution" shall stand substituted with the following "

"No bus belonging to or hired by an educational institution shall be driven by a driver who has -
(a) Less than fives years of experience of driving heavy vehicles;

(b) been challaned more than twice in a year in respect of offences of Jumping red lights. Improper or obstructive parking violating the stop line. violating the rule requiring driving within the bus lane. Violating restricting the overtaking. allowing unauthorised person to drive;

(c) been challaned/charged even once for the offence of over speeding, drunken driving and driving dangerously or for the offences under Sections 279, 337, 338 and 304-A of the Indian Penal Code. All such drivers would be dressed in a distinctive uniform and all such buses shall carry a suitable

inscription to indicate that they are in the duty of an educational institution".

(iii) In para A(c). after the word "buses" add the words "heavy goods vehicles, medium goods vehicles, and A-wheel light goods vehicles plying during the permitted hours.

(iv) In para A(h). and the following :

"Needless to add, this is in addition to the statutory power conferred under Section 115 of the Motor Vehicles Act under which the authorities can prohibited or restrict any class of vehicle(s) from being used, inter alia any particular route or during any period of time.

(14) The Transport as well as the Police Departments are directed to ensure that the contents of this order are duly publicised so that the people using roads are made aware of the restrictions imposed. They should also give publicity to the basic rules relating to safe driving, particularly those relating to user of bus lanes, changing of lane, overtaking and right of way on round about. We direct the Union of India to make available the necessary facilities in this regard, particularly in relation to the electronic media.

15