

XI-HC-22

(5) Subsit Revision 27/12/2002 & 23/7
of the constitution of
उच्च न्यायालय, छत्तीसगढ़, बिलासपुर J.K.P. matters

Division Bench

आदेश पत्रक

मात्रा क्रमांक 10225 मं. 2002
Office Reference No. 5704 of 23/7/02

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अतिम आदेश
		P.O. 1069/02 Petition of Presented on 20.10.02 with by Shri. Office Reference No. 5704 of 23/7/02 it be checked fixed for

HIGH COURT OF CHHATTISGARH AT BILASPUR**Office Reference regarding Road Accidents****W.P.No.1025/2002****W.P.No.1027/2002****W.P.No.1029/2002**

Present: HON'BLE SHRI JUSTICE FAKHRUDDIN

Dr. Nirmal Shukla, Additional Advocate General, Shri Sanjay K. Agrawal, Deputy Advocate General and Shri P.S.Koshy, Govt. Advocate for the State.

Shri A.S.Gaharwal, Sr. Standing Counsel with Shri V.V.S.Murty, Standing Counsel for Union of India.

Sarva Shri Vivek Tankha, Senior Advocate, Prashant Jayaswal, Manindra Shrivastava and Ms. Sangeeta Mishra, Advocates appears as Amicus Curiae.

ORDER**(29.05.2002)**

This is an office reference. The matter relates to the death occurred in frequent road accidents, highlighted by various newspapers. W.P. No.1025/2002 has been registered in view of the matter published in English Daily dated 17.5.2002. Similarly.

W.P.No.1027/2002 and 1029/2002 have been registered in view of the matter published in Hindi Daily Nav Bharat dated 15.5.2002 and Hari Bhoomi dated 17.7.2002 and Bhaskar. Practically all the newspapers of Hindi and English being published and circulated have highlighted the deaths occurring in frequent road accidents. Certain newspapers have mentioned in their columns expressing their deep concern. All these have been registered separately. It is reported that the increasing incidents of road mishaps resulting in cutting short people's lives should be a matter of serious concern for Chhattisgarh administration. Some newspapers have come forward with certain suggestions. It is generally contended in the articles/columns of newspapers that because of lack of mass awakening and poor implementation of traffic rules and regulation the incidents frequently occur. It is also imperative for the authorities to think of creating awareness among villagers about the dangers and risk of availing services of the illegal mini-bus or tractor operators. There is also need to come down heavily on driving in an inebriated condition.

2. It is a socio-legal problem. Compliance of Motor Vehicles Act and rules is must in proper perspective by the public at large as well as the administration. State

is always obliged to ensure the compliance of Motor Vehicles Act and traffic rules by the public as well as its officials. Some suggestions regarding less possibility of accidents i.e. establishment of Transport Nagar and Ring Road have been made. Over loading in Jeeps, Mini-buses, Maxi-Cab, taxies is a regular phenomenon and it is not being controlled by the authorities. In this connection, Bilaspur city has also been highlighted about these accidents occurred within two weeks in which many persons have died. These newspapers have also highlighted the high speed within the municipal area, and some measures are required to be adopted to control high speed.

3. The English Daily 'Hitawada' in its publication dated 17.5.2002 highlighted that 11 people died and 14 others were seriously injured when a loaded tractor with marriage party fell in a canal near village Gatora under Masturi jurisdiction and in its editorial column it has been stated that experience shows that such accidents take place usually at the time when the marriage season is at its peak. People not able to hire an authorized government undertaking bus or another vehicle, operating with necessary permits, turn to the clandestine road transport operators, plying vehicles in total disrespect of the prescribed rules and regulations

and the reason behind it not far to seek. As many as fifteen lives were lost in two separate road accidents occurring in the Bilaspur and Durg districts in less than 24 hours. It is pointed out that the moot question, however, is why in the first place, such illegal operations are allowed in the rural segments by the administration. Reports also indicate that these illegal operators continue to fleece the traveling public in mishaps stands testimony to this. Unless the authorities decide to crack down on all illegal operators and deal with them sternly, there is every possibility of many more fatal mishaps taking place. Efforts must be made to prevent all illegal road transport operations. It is also reported that sometimes, due to accidents law and order problem arises and the cases are registered as it happened in Kota (Bilaspur) accident where a young lawyer died as a result of accident and it has invited wrath of local people and ultimately the furious mob adopted agitational approach causing damage to the public property.

4. This Court has considered the matter as great social menace and challenge on socio-legal problem. . It may be worthwhile to mention the theory of Sociologist advocating that going beyond conventional wisdom, punishment or enforcement of law has to be judged with

the abolishment of crime in society. Law is not functional because it checks crime. Law is functional rather because it ensures that the offence committed by the offender is inflicting injury on collective consciousness. Sometime collective consciousness stand confused, tensed and worried demanding strict enforcement of law. It is this collective consciousness, which has got to be awakened by all those who desire to curb this menace. The mob frenzy is equally hazardous and though it is acknowledged in section 134 of Motor Vehicle Act 1988 by the Parliament but drastic actions and implementation is required if the same is to be checked. Whenever an accident occurs the collective consciousness stands confused, tensed and worried and demands enforcement of law, as is apparent from day to day happenings reported and highlighted by newspapers. This has taken serious turn and it is high time to counter the harsh consequences. The number of deaths occurring in accidents and thereafter its aftermath by mob frenzy or otherwise reflects the low level of preparedness both by police administration and the respective Governments. It is not a local phenomenon but as the newspapers are highlighting it is spread practically in all states and the scale in which lives are snatched, injuries sustained and thereafter

public property destroyed, requires serious consideration by the Governments both Central and State as well as public service organizations. The degree of the calamity calls for extraordinary preparation and response similar to that of managing to the national disaster. Public awareness is the need of the hour. The elementary precaution by not only the knowledge but also practice of Rules and Regulations of driving is required. Ignorance of Rules and Regulations is the main cause. There is urgent need for the Govt. to go on a pro-active overdrive vigorous awakesness campaign and educating children and adult both that may bring major change. A sustained programme aimed at educating the public on the importance of the matter is crucial, given the rapidity with which the accidents occurred. There are long-term issues that have to be addressed by the Govt. proper planning and implementations deserve the highest consideration of the authorities. It has to be remembered that it is not the natural calamity like earthquakes or flood but is man made and mostly due to want of care & caution, rashness and negligence. It can be cured by effective public response and comprehensive action plan to be charted out by the State functionaries both at the Central and the State level.

5. Shri Vivek Tankha, learned senior counsel present in Court submitted that road accidents like these are matters of serious concern. He addressed the Court and submitted that so far as the matters regarding regulation of the traffic in city of Jabalpur is concerned, 8 points regarding traffic have been chalked out to avoid accidents in cities may be avoided. Shri Tankha undertakes to forward it and supply to the State counsel. Let that be done. The State Counsel Shri Sanjay K. Agrawal, Dy. A.G. shall obtain the copy from Shri Tankha, and after examining them, the State may suitably if desire adopt the same as has been done in Madhya Pradesh.

6. Shri Prashant Jayaswal, Shri Manindra Shrivastava and Ms. Sangeeta Mishra appearing as amicus curiae also addressed the court. They have shown great concern. They further submitted that so far as city of Bilaspur is concerned there is haphazard traffic flow on the main roads & junctions and the movement of vehicles is at random due to lack of proper control. It is submitted that mandatory signs, cautionary signs and informatory signs stipulated in Motor Vehicles Act 1988 are not marked wherever necessary and the traffic light signals are not there in the city of Bilaspur. Parking of the two wheelers in front

of the shops and establishments which occupy beyond the roadsides also causes great impediments in free flow of traffic. It is also pointed out that as a part of overloading, the Bus operators stop their vehicles every now and then on the road to pick up the passengers without following rules which results in stagnation of vehicles along the road causing accidents and there is no control. It is submitted that the incidents of road accidents can effectively be avoided, if the traffic is controlled properly and the rules are followed by the public in proper perspective manner. Similar situations are prevalent in Raipur, Durg, Bhilai, Korba and other towns of the State. It is emphasized that certain policy should be adopted regarding grant of driving licenses and special care has to be taken that the riders/users of the vehicles are granted licences strictly in accordance with rules. If required there should be proper verification.

7. It is submitted that the vehicles are not properly maintained. The tractor trolleys carrying passengers of marriage parties also do not have proper accessories and light fittings and as a result of which, accidents occur. The drivers, some times, are intoxicated. In this connection, proper checking of vehicles is required. The motor cycle/Scooter has the capacity of two persons

and sometimes the entire family is found on one motorcycle or scooter. Growing number of road mishaps are matter of serious concern.

8. Each vehicle of four wheelers should have first aid box. The drivers are to be conscious of rash and negligent driving, which not only takes away the life of other persons, but it risks their own life also. Overloading in the cabin of the driver whether it is goods vehicle or passenger vehicle should be avoided. In view of the accidents arise out of accelerated speed the hospitals both at primary and district level have to be equipped for such emergency cases as precaution.

9. People should be got acquainted with rules of driving, traffic etc. It is for the State to infuse in the minds of public that the rules & regulations are framed for the safety of public and to prevent the accidents. Widespread campaign may be initiated through the ~~electronic~~ media and cinemas for mass awakening. State may also take such steps for exhibition of slides and films which are warranted.

10. The health department has to take care of providing forthwith medical treatment to the injured in view of Section 134(a) of Motor Vehicles Act 1988. Post accidental reliefs are necessarily required to be undertaken. i.e. admitting the injured to the hospitals

for immediate treatment, information to the Police, reaching of police at the spot and in case of death, preparation of panchnama, taking out Photograph depicting the scene of incident, communication to the family members and relatives and providence of forthwith medical treatment in hospitals. Where as a result of accidents, people loose their limbs, State shall render assistance sympathetically by fitting artificial limbs, rehabilitation process including matters of accidents claims, distribution of immediate exgratia payment, payment of no fault liability and lodging of claims, post accidental cases, medical and legal aid are required.

11. In this connection, it is very pertinent to refer to clause (a) section 134 of Motor Vehicles Act, 1988 which reads as under:

"Sec.134. Duty of driver in case of accident and injury to a person.____ When any person is injured or any property of a third party is damaged, as a result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall____

(a) Unless it is not practicable to do so on account of mob fury or any other reason beyond his control, take all reasonable steps to secure medical attention for the injured person [by conveying him to the nearest medical practitioner or hospital and it shall be the duty of every registered medical practitioner or the doctor on duty in the hospital immediately to attend to the

injured person and render medical aid or treatment without waiting for any procedural formalities] unless the injured person or his guardian, in case he is a minor, desires otherwise;"

A perusal of Sec.134 of the Act shows that the driver is also obliged to take all reasonable steps to secure medical attention for the injured person. ~~except under the circumstances mob fury~~

12. Legal Aid Officers are also functioning in Districts as well as in some tehsil areas. They may be entrusted with the job of immediate legal assistance. Where the persons are not able to engage lawyers, the legal aid officers can do their best. It is for the District Magistrate, District Judge and C.J.M. to chalk out the scheme.

13. The mass awakening is required among the people to get the vehicle insured. The Life Insurance Corporation has already introduced certain schemes for covering the life risks arise out of accidents. Medi-claim policy is also there to provide medical treatment. The Insurance Companies may also be motivated by the State and center. The State and Central Govt. may also consider the desirability of furnishing the required insurance and registration particulars of the following

on the body of each vehicle carrying passengers such as Buses/mini-busses and trucks:

- i) Regn. No. of the vehicle and the type of vehicle.
- ii) Name and address of the insurance company with which the vehicle is insured and the particulars of the Divisional Officer of the said Insurance Company.
- iii) Number of Insurance Policy/Insurance certificate and the date of validity of the insurance policy/insurance certificate. Period of insurance.
- iv) Registration particulars of the vehicle (class of vehicles)
 - a. Regn. No.
 - b. Engine no.
 - c. Chasis no.
- v. Driving licence particulars:
 - a. Name & address of the driver.
 - b. Driving licence number and date of expiry.
 - c. Address of the issuing authority.
 - d. Badge no. in case public service vehicle.

14. It is relevant here to reproduce the relevant portion of synopsis 6 regarding statement of objects and reasons of the Motor Vehicles (Amendment) Act, 1982 (Act 7 of 1982) which is as under.

"There has been rapid development of road transport during the past few years and a large increase in the number of motor vehicles on the road. The

incidents of road accidents by motor vehicles has reached serious proportions. During the last 3 years, the number of road accidents per year on the average has been around 1.45 lakhs and of these the number of fatal accidents has been around 20000 per year. The victims of these accidents are generally pedestrians belonging to the less affluent sections of society."

"The Law Commission of India, in its fifty first report on Compensation for Injuries caused by Automobiles in hit and run cases has made certain suggestion with respect to hit and run cases."

15. The Central Government may make the rules for the purpose of licensing and regulating, by the State Governments, schools or establishments (by whatever name called) for; imparting instruction in driving of motor vehicles and matters connected therewith. Establishment of driving schools duly registered is also one of the requirements. The authorities concerned may also consider the desirability of ~~should~~ establishing ^{Govt. Driving} schools because in absence of these establishments, the children as well as adults try to learn on grounds and roads. Therefore, proper schools have to be established. Let there be Govt. aided and supervised Driving Schools. The driving may be prescribed as one of the courses in ^{Technical and} ~~Polytechnic and~~ I.T.I. Institutions.

16. A general course may be introduced in schools and colleges to impart the students about the traffic rules and the Motor Vehicles Act along with Physical Education Training. The State may avail of the voluntary service of the students of Scouts, NCC by giving them proper training through concerned department and they may be rewarded by issuing Certificates.

17. It is more pertinent to refer to the provisions of sections and rules contained in Motor Vehicles Act 1988 in order to curtail the road accidents.

Chapter XIII of the Motor Vehicles Act, 1988 deals with offences, penalties and procedures.

18. Section 177 is relevant here to reproduce which reads as under:

177. General Provision for punishment of offences.- Whoever contravenes any provision of this Act or of any rule, regulation or notification made there under shall, if no penalty is provided for the offence be punishable for the first offence with fine which may extend to one hundred rupees, and for any second or subsequent offence with fine which may extend to three hundred rupees.

20. Taking vehicle without authority is punishable u/s 197 of Motor Vehicles Act, 1988 which reads as under.

197. Taking vehicle without authority.-

(1) Whoever takes and drives away any motor vehicle without having either the consent of the owner thereof or other lawful authority shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both:

Provided that no provision shall be convicted under this section if the Court is satisfied that such person acted in the reasonable belief that he had lawful authority or in the reasonable belief that the owner would in the circumstances of the case have given his consent if he had been asked therefore.

(2) Whoever, unlawfully by force or threat or force or by any other form of intimidation, seizes or exercises control of a motor vehicle, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) Whoever attempts to commit any of the acts referred to in sub-section (2) in relation to any motor vehicle, or abets the commission of any such act, shall also be deemed to have committed an offence under sub-section (1) or as the case may be, sub-section (2).

The State has to inform public about it and caution and also take suitable action for contravention of these provisions.

21. Section 180 imposes punishment for the act of allowing unauthorized persons to drive vehicle. Section 180 reads as under:

180. Allowing unauthorized persons to drive the vehicles. - Whoever, being the

owner or person in charge of a motor vehicle, causes or permits, any other person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

The State has to inform public about it and caution and also take suitable action for contravention of these provisions.

22. State should deploy sufficient force in order to comply with the provisions of section 202, which empowers the authority to arrest without, warrant.

Section 202 reads as under:

202. Power to arrest without warrant.-

(1) A police officer in uniform may arrest without warrant any person who in his presence commits an offence punishable under section 184 or section 185 or section 197:

Provided that any person so arrested in connection with an offence punishable under section 185 shall, within two hours of his arrest, be subjected to a medical examination referred to in sections 203 and 204 by a registered medical practitioner failing which he shall be released from custody.

(2) A police Officer in uniform may arrest without warrant any person, who has committed an offence under this Act, if such person refuses to give his name and address.

(3) A police officer arresting without

warrant the driver of a motor vehicle shall if the circumstances so require take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle.

The State has to inform public about it and caution and also take suitable action for contravention of these provisions.

23. The clauses (a) to (v) contained in rule 22 regarding endorse in driving licence is also required to be complied with. Rule 22 reads as under:

22. Endorsement by Courts,- A court convicting a holder of a licence, for any one of the offences specified hereunder, shall endorse or cause to be endorsed in the driving licence, the particulars of such conviction namely:-

- (a) Driving without a licence, or without a licence, which is effective, or without a licence applicable to the vehicle driven (section 3).
- (b) Allowing a licence to be used by another person (section 6(2)).
- (c) Driving when disqualified (sec. 23)
- (d) Driving an unregistered vehicle (sec.39)
- (e) Driving a transport vehicle not covered by a certificate of fitness (sec.56)
- (f) Driving a transport vehicle in contravention of section 56).

- (g) Driving in contravention of rule 118.
- (h) Failure to comply with provisions of section 114.
- (i) Refusing or failing within specified time to produce licence or certificate of registration (section 130).
- (j) Failing to stop vehicle as required under section 132.
- (k) Obtaining or applying for a licence without giving particulars of endorsement (section 182)
- (l) Driving at excessive speed (section 183).
- (m) Driving dangerously (section 184).
- (n) Driving while under the influence of drink or drugs (section 185)
- (o) Driving when mentally or physically unfit to drive (section 186).
- (p) Abatement of an offence punishable under section 183 or 186.
- (q) Abatement of offence specified in section 188.
- (r) Taking part in unauthorized race or trial of speed (section 189).
- (s) Using vehicles in unsafe condition (Sec.190)
- (t) Driving vehicle exceeding permissible limit or weight (section 194).
- (u) Altering a licence or using an altered licence.

An offence punishable with

imprisonment in the commission of which a motor vehicle was used.

Heavy duty lies on the Court to do it and they are accordingly directed to comply with these provisions.

24. Sub-section 4 of section 166 of Motor Vehicles Act 1988 provides that the claims tribunal shall treat any report of accidents forwarded to it under sub-section (6) of Section 158 as an application for compensation under this Act.

Sub-section 6 of section 158 reads as under:

As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a Police Officer, the officer incharge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, or completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer.

25. The State being a welfare State would see that provisions of Section 158 (6) are complied with in all earnest and inspecting higher authorities to see its compliance. Under Rule 150(a) and (2) of the Central Motor Vehicles Rules, 1989 Form 54 has been prescribed. This is for "Accident Information Report",

which requires following information to be filled up and submitted by the police station.

"Form 54

(See Rule 150 (a) and (2))

Accident Information Report

1. Name of the police station
2. CR No./Traffic accident report
3. Date
4. Name and full address of the injured/deceased
5. Name of the hospital to which he/she was removed
6. Registration number of vehicle and the type of the vehicle
7. Driving licence particulars:
 - a. Name and address of the driver
 - b. Driving licence number and date of expiry
 - c. Address of the issuing authority
 - d. Badge No. in case of public service vehicle
8. Name and address of the owner of the vehicle at the time of the accident
9. Name and address of the insurance company with whom the vehicle was insured and the particulars of the Divisional Officer of the said insurance company
10. Number of insurance policy/insurance certificate and the date of validity of the insurance policy/insurance certificate
11. Registration particulars of the vehicle (class of vehicles)
 - a. Registration No.
 - b. Engine No.
 - c. Chassis No.
12. Route permit particulars
13. Action taken, if any, and the result thereof"

It must also be available in the police stations, if not available it shall be made available. It is the duty of the Station House Officer to fill up this form and submit it to the authorities concerned including the Motor Accident Claims Tribunal and copy of this must promptly be sent to the Magistrate concerned.

The Magistrate concerned must also see that this Accident Information Report is sent and if not sent it should be directed to be sent and some particulars or other could not be given the Station House Officer should give reasons for that. This will facilitate the claimants in preferring the claims. The Superintendent of Police concerned to see that the Station House Officers and the Police Officers to comply with this direction. Higher Police Authorities who inspecting the Police Station concerned should note whether this has been complied with or not. The Chief Judicial Magistrates and the District and Sessions Judges concerned shall also take proper care to see that this has been complied with. The Motor Accident Claims Tribunal may also call for this Accident Information Report from the Station House Officer either at its own or on an application made by either of the parties. The C.J.M. District & Sessions Judges and Claims Tribunal are accordingly directed.

Requirement of construction, equipment and maintenance of motor vehicle have also been provided in Chapter V of M.P. Motor Vehicles Rules 1989. Necessary compliance thereof is must. Rule 94 regarding condition of tires and rule 96, 97, 98 and rule 100 regarding safety glasses are the

essential requirements of the ~~M.P.~~ Motor Vehicles Act and strict compliance thereof is needed.

26. In order to comply with the Motor Vehicles Act and the traffic rules, the C.J.M./A.C.J.M./Magistrates First Class in every district as directed shall hold periodical mobile Courts for surprise checks and the State shall provide due assistance through the District Administration. If such courts are held, the Collector and Superintendent of Police & R.T.O. of the district concerned shall ensure that vehicles and police force is provided to render due co-operation to the Mobile Courts.

27. During the course of arguments, Shri Sanjay K. Agrawal, Dy. A.G. learned counsel for the State submitted that the State is conscious of its responsibility, but it is for the public to render their due assistance.

28. Shri S.K. Agrawal, Deputy Advocate General for the State however submits that the Government is taking action because of the seriousness of the accidents. Shri Agarwal submits that the State Government has constituted 'State Road Safety Council' under the Chairmanship of Transport Minister, Govt. of

Chhattisgarh which includes 'Members' for various departments and dignitaries, and the terms of reference and functions of the Council has also been prescribed. This is good; let the State Road Safety Council do its best. The State may also consider constitution of such Authorities/Council for District and Tehsil. He further submits that the State owned Road Transport Corporation has already initiated a drive to conduct surprise checks of the vehicles plying without necessary permits. In view of the growing incidents of the road accidents, much more attention has to be paid as the consequences are of serious concern and there is no doubt, they must be receiving the attention of the Government and certain measures to this effect are in contemplation.

29. It is pointed out that the accidents occur because of the hurry of the people, each one is in hurry and persons have no time. For this mass awakening is required. It is also suggested that the offences Under Section 304-A if the drivers of public transport buses and trucks commit them, they should be made non-bailable and further punishment may be enhanced which has been presently prescribed, ~~as two years.~~ The

State and Central Govt. may consider this aspect as it lies within their domain.

30. So far as mob fury is concerned the law is clear against those who break the law and/or takes law in their hand. Learned counsel appearing for the State pointed out that in Tehsil - Kota, District-Bilaspur an accident occurred on 4.10.2001 near the Petrol Pump, in the said accident one Advocate died on the spot. Because of this incident some residents of the locality gathered and burnt the truck thereafter that mob started agitation, ransacked and entered and burnt the police station also caused loss to the public property. The public has to be apprised of its fundamental duties one of them is to safeguard public property and to abjure violence and whosoever indulges into it must be dealt with strictly. The public has to be suitably warned about unsocial elements taking advantage of the situation as sometimes police reaches late and so also Insurance Inspectors and representatives. The offending vehicle remain lying surrounded by bricks & stones unattended causing further accidents. The police and Insurance Companies have to be prompt and those causing unnecessary delay should be severally dealt with. District Magistrate, Police and Insurance

Company have to coordinate and cooperate with each other. The District Magistrate may appoint some officer if so desire. Post Accident Cell may be created in big cities especially Bilaspur, Raipur and Durg. Proper investigation so as to ascertain reasons and negligence as well as contributory negligence if any has to be ^{enquired.} ~~there~~. After following the provisions of the Motor Vehicles Act proper challan duly scrutinized should be filed. Copy of the challan papers should be supplied to the injured and/or heirs of the deceased so that if necessary they may assist the prosecution. Their assistance in prosecution ^{subject to Court order, may be useful for} ~~is also required for~~ proper presentation and arriving at just conclusion. ~~by the Courts~~

32. The ultimate duties and responsibility lies in the public and the State Functionaries, looking to the seriousness of the matter the Court is only highlighting the situation, and by this order is trying to draw attention towards the law on the point, duties and obligations of the public, state functionaries and the State. This Court does not want to legislate or otherwise and would like to emphasize that in a decision reported in 2002 AIR SCW 2186 (Union of India Vs. Association for Democratic Reforms and another) even the apex Court has taken the view that 'it is not possible for the

Supreme Court to give any directions for amending the Act or the statutory Rules. It is for the Parliament to amend the Act and the Rules. It is also established law that no direction can be given which would be contrary to the Act and the Rules. However, it is equally settled that in case when the Act of Rules are silent on a particular subject and the Authority implementing the same has constitutional or statutory power to implement it, the Court can necessarily issue directions or orders to the said subject to fill the vacuum or void till the suitable law is enacted." It is for the authorities to do. The Courts have their own limitations. So far as ~~High~~^{this} Court is concerned it has only highlighted the situation and it is for the executives and the legislature to do the needful.

33. Some provisions of Act, Rules and Regulations have been quoted hereinabove. The need is for implementation. The same be implemented. Let beginning may be made from Bilaspur and Raipur Divisional headquarters.

34. Before parting with the case, this Court appreciates the correspondents & and newspapers concerned for doing their best in highlighting the incidents, which are of the matters of serious concern.

35. Accordingly copy of this order be immediately forwarded to the Commissioners of the Divisions, Collectors of Bilaspur and Raipur for compliance and submit report within three months.

36. A copy this order be also sent to the District Judges/C.J.Ms concerned.

37. A copy of this order be supplied to Shri Sanjay K. Agarwal, Deputy Advocate General who shall forward it to the all concerned for needful and compliance including District Magistrate and Superintendent of Police of each District through Principal Secretary concerned.

38. A copy of this order be also supplied to Shri A.S.Gaharwar/V.V.S.Murty Standing counsel for Union of India.

39. With the directions/observations aforesaid, all the three references are disposed of.

Sd/-
Fakhruddin
Judge

Thakur
Ras