

PIL 19/2004

BEFORE

THE HON'BLE MR. JUSTICE RANJAN GOGOI

THE HON'BLE MR. JUSTICE A. C. UPADHYAY

JUDGMENT & ORDER (oral)

Ranjan Gogoi, J.

Heard Sri A. K. Goswami, learned Senior Counsel for the petitioner and Sri B. J. Talukdar, learned Govt. Advocate, Assam.

2. At the very outset, Sri Goswami, learned counsel for the petitioner, has submitted that out of the several prayers made in the writ petition, at this stage, he would confine himself to the prayers contained in paragraph (a) and (b) of the prayer portion of the writ petition. Specifically, in paragraph (a) the writ petitioner has prayed for directions from the Court for framing of guidelines regarding use of red lights and sirens on Govt. vehicles and for regulation of traffic at the time of VIP movement on public roads. The prayer contained in paragraph (b) is for a direction for strict compliance of the Govt. of India notification bearing No.S.O.52(E) dated 11.01.2002 and the Govt. of Assam notification bearing No.TMV.438/87/164 dated 12.07.2002.

3. The brief facts, which had led to the institution of the present public interest litigation, may be usefully recapitulated at this stage.

On 8.3.2004, at about 12/12.30 P.M., one of the learned Advocates of the Gauhati High Court and a member of the petitioner Association was returning from Ulubari area of the City where he had gone in connection with his professional duties. The Advocate, Sri Dinesh Agarwal, was proceeding to the premises of the Gauhati High Court. On the way, at Ulubari inter-section, the traffic approaching the B. Barooah Road was stopped on account of movement of Smti. Sonia Gandhi, the then President of All India Congress Committee. It is the case of the petitioner Association that after the VIP movement was over some of the motorcycles, scooters and vehicles that had been stopped started moving towards the B. Barooah Road. Sri Agarwal who was on a motorcycle also tried to move when he was accosted by one Sri A. Mahanta, a Sub-Inspector of Police. According to the petitioner, there was some exchange of words between Sri Agarwal and the Sub Inspector Mahanta as a sequel to which Sri Agarwal was assaulted by Sri Mahanta, Sub-Inspector of police. This led to the filing of an F.I.R. by Sri Agarwal against Sub-Inspector Sri Mahanta on the basis of which Paltanbazar P.S. Case No.80/2004 under Sections 342/323, IPC was registered. Apparently, over the same incident another F.I.R. was filed against Sri Agarwal on the basis of which Paltanbazar P.S. Case No.78/2004 under Sections 279/353/294, I.P.C. was registered. The matter having been brought to the knowledge of the petitioner Association, the Association in an extraordinary general meeting, inter alia, resolved to avail all the legal remedies available to it for the protection of its members. Consequently, this writ petition has been filed.

4. During the pendency of the writ petition while Paltanbazar P.S. Case No. 80/2004 has ended in F.R., charge-sheet has been submitted against Sri Agarwal in Paltanbazar P.S. Case No.78/2004. The Court is informed that the trial of the aforesaid case against Sri Agarwal is presently going on. It is, perhaps, on account of the aforesaid developments that have taken place during the pendency of the writ petition that the learned counsel for the writ petitioner Association has truncated the reliefs sought for in the writ petition.

5. Insofar as the use of red lights and sirens on Govt. vehicles are concerned it is clear to us that the persons who are entitled to use red lights and si

rens are comprehensibly covered by the Govt. of India Notification bearing No.S. O.52(E) dated 11.01.2002 and the Govt. of Assam Notification bearing No.TMV.438/87/164 dated 12.07.2002. No further notification extending the category of persons who are entitled to use red lights and sirens have been brought to the notice of the Court by the learned Govt. Advocate, Sri B. J. Talukdar. If that be so, there can be no manner of doubt that it is the legal obligation of the appropriate authorities in the State Government to strictly enforce the terms of the aforesaid two Government notifications. In this regard, our attention has also been invited to an earlier order of this Court dated 9.2.2000 in the case of Bijaya Nanda Choudhury vs. State of Assam and others, reported in 2000 (3) GLR 159, wherein, in para 5 of the order, this Court had already issued similar directions. We are distressed that notwithstanding what has been observed by the Court in Bijaya Nanda Choudhury (supra) full and effective implementation of the said directions and the Government notifications referred to above have not materialized. In this regard, we may point out that insofar Judicial Officers are concerned, under orders issued by the Registrar General of this Court, all District Judges and officers of equivalent rank have been debarred from using red lights on their vehicles which was the prevailing practice in vogue for long. The State Government, in our considered view, may meaningfully implement the Govt. notifications in force in a similar manner.

6. Insofar as the regulation of traffic at the time of VIP movement, Sri Talukdar, learned Govt. Advocate, Assam, has categorically stated that for movement of the following persons and no one else traffic on the public roads can be brought to a halt. The said persons in case of whose movements traffic can be brought to a halt are included in a list enclosed as Annexure-B to the additional affidavit dated 11th May 2009 filed by the Commissioner & Secretary to the Govt. of Assam, Home & Political Department. The aforesaid persons are (1) Dr. Manmohan Singh, PM (All States); (2) Shri A.B. Vajpayee, former PM (All States); (3) Smt. Sonia Gandhi (All States); (4) Shri Rahul Gandhi (All States); (5) Shri P. Chidambaram, Union Home Minister (All States); (6) Shri L. K. Advani, Leader of Opposition (All States); (7) Sri Narendra Modi, CM, Gujarat (All States); (8) Shri Rajnath Singh, MP/RS (All States) and (9) Shri Tarun Gogoi, CM/Assam (In Assam).

7. Sri Talukdar has further drawn the attention of the Court to the provisions contained in Clause VI(6)(e) of the Government of India Memorandum bearing No.42/VS-I/2006(13) dated 22nd March 2006 enclosed as Annexure-A to the aforesaid additional affidavit dated 11.5.2009. The provisions contained in Clause VI(6)(e) is to the following effect :

The traffic should not be held up for more than three minutes. This time limit should be strictly enforced.

From the above it is crystal clear that only in the case of movement of the aforesaid nine persons, to the exclusion of any other person, traffic is required to be halted and, that too, for a period of three minutes only. The provision contained in the aforesaid clause makes it very clear that the time limit of three minutes is required to be strictly enforced.

8. We have also noted that in the decision of this Court in Bijaya Nanda Choudhury (supra), referred to earlier, the Court had expressed its anxiety that regulation of traffic should be done, where necessary, in a manner which causes least inconvenience to the public. Undoubtedly it is to minimize such inconvenience to the people that the identification of the persons in case of whose movement traffic can be brought to a halt and the period/ duration for which such traffic should be halted have been laid down in subsequent Govt. notifications. As the matter is now covered by the Government of India Memorandum bearing No.42/VS-I/2006(13) dated 22nd March 2006 we are of the view that all authorities of the State Government are under an obligation to strictly implement the terms of the Office Memorandum, particularly clause-VI(6)(e) insofar as regulation/ halting of

f traffic is concerned. We, therefore, order accordingly.

9. The writ petition shall stand disposed of in the above terms.

10. Copy of this order be furnished to the Chief Secretary to the Government of Assam, Home Secretary to the Govt. of Assam, Law Secretary to the Govt. of Assam and the Director General of Police, Assam forthwith.