

**IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL**

Writ Petition (M/S) No.2112 of 2011

Arun Kumar

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Petitioner Versus

State of Uttarakhand and other

Respondents

Mr. Amar Shukla, Advocate for the petitioner/ applicant.

Mr. P.C. Bisht, Standing Counsel for the State.

Mr. Ashish Joshi, Advocate for the respondent no.6.

Hon'ble Rajiv Sharma,J.

Heard on the Misc. Application No. 848 of
2018.

2. In sequel to the directions issued by this Court on 4.7.2018, Mr. D. Senthil Pandiyan, Secretary (Transport) to the State of Uttarakhand is present in person before the Court.

3. The Court has a long interactive session with Mr. Pandiyan. To minimise the accident in the State of Uttarakhand, he has brought to the notice of the Court that there are about 1000 vulnerable spots prone to accidents. He also submits that poor road conditions/ overloading, over-speeding, drunken driving, defective buses are also the contributory factors leading to accidents.

4. The roads are maintained by the Public Works Department. The multi disciplinary approach is required to be evolved to tackle a very serious issue. The foremost is to have a road safety audit. The road safety audit is carried out as per the guidelines issued by the Ministry of Road, Transport & Highways.

5. It is brought to the notice of this Court by the Secretary (Transport) that there are 21 Enforcement Teams checking the violation of the provisions of the Motor Vehicles Act, 1989 (*hereinafter to be referred as 'the Act'*) and the Rules framed thereunder and the ancillary enactments. This number is inadequate. There should be at least 100 enforcement teams to undertake the enforcement and implementation of the Motor Vehicles Act and the Rules, framed thereunder, and ancillary laws.

6. It is also brought to the notice of the Court that the Transport Department is not invoking the provisions of Sections 185, 192-A and 194 of the Motor Vehicles Act, 1988 against the violators of law.

7. Mr. D. Senthil Pandiyan, Secretary, Transport to the State of Uttarkhand has also submitted the report, suggesting the steps taken, pursuant to the directions issued by this Court as remedial measures.

8. Mr. Navnish Negi, Advocate, submitted at the Bar that during the Char Dham Yatras, majority of transport buses are diverted, more particularly, in District Pauri Garhwal, very few buses are available for general commuters which leads to overloading.

9. It has come in the report that the private vehicles are fitted with crash guards and bull bars. The private vehicles are also using hooters, sirens. The sirens can only be used by the ambulances, fire tenders and any vehicle used for salvage operations.

10. It was also submitted that on Government vehicles/private vehicles, designations/description of

offices/unauthorized emblems are displayed. Words like High Court, Army, Police, Journalists etc. are written on private vehicles. This is not permissible under the law. The State Government has established a training institute named ITDR, Jhanjhra-Chakrata Road, Dehradun for imparting training of one month to the drivers for issuance of commercial licence. This institute is practically defunct. Licences are issued by the Officers/Officials without ensuring whether the driver has undertaken one month's mandatory training or not.

11. The State Government has issued notification on 21.05.2006 to ensure that pillion riders of the two-wheelers also use helmet. This direction is followed more in breach. It is the duty of the State Government to enforce the notification dated 21.05.2006 by invoking the principle of paternalism. Use of helmet is mandatory for the pillion rider including women and children for their safety. Children should only sit behind the driver as pillion riders for their own safety.

12. The State Govt. has constituted the Disaster Response Committee in each district. In major accidents, the response of the Disaster Response Committee is slow. The Committee is required to be equipped with the latest equipment. The persons should be trained in rescue operations. The Committee must reach the site of accident immediately.

13. The residents living in the hilly areas have a fundamental right to travel. It is the duty of the State Government and Public undertakings to provide the same. The citizens of the State of Uttarakhand cannot be left at the mercy of the private operators.

14. The Secretary, Transport to the State of Uttarakhand has highlighted that they do not have nay space to park the seized vehicles. More than 25 lakhs vehicles are plying in the State of Uttarakhand.

15. The buses which have completed their maximum mileage permissible are still plying on the roads.

16. Learned counsel for the respondent no.6 Corporation has submitted that the employees of the Corporation are indulging in indiscipline and advances threats to go on strike.

17. Accordingly, with the consent of the parties, in larger public interest to save precious lives and for due implementation of provisions of the Motor Vehicles Act, 1988 and the Rules framed thereunder and ancillary laws, the following mandatory directions are issued:-

A. The Secretary, Transport is directed to undertake 'road-safety audit' of the entire State within a period of one month and to take remedial measures thereafter.

B. The Secretary, Transport, as undertaken by him, is directed to establish 73 enforcement teams for each Tehsil over and above the existing Teams to undertake the enforcement and implementation of Motor Vehicles Act, 1988 and the rules framed thereunder. It shall be open to the State to recruit the persons to enforce agency by resorting to deputation, deployment and secondment teams. The Committee shall also induct one Advocate in order to enforce the provisions of law effectively.

- C. The Secretary, Transport has undertaken to install the speed governors in every transport vehicle within a period of three months from today on 'route specific' basis. This will cover old as well as new buses.
- D. In order to check the drunken driving, the State Government is directed to provide the transport department at least 100 breathe analyzers within one week.
- E. All the drivers and conductors throughout the State of Uttarakhand should be in prescribed uniform. The Secretary, Transport is directed to issue instructions that all the drivers and conductors behave with commuters in a dignified manner, more particularly with women, children and elderly people.
- F. The State Government is directed to construct parapets, crash barriers and erect sign boards on all the 1000 vulnerable points within three months from today.
- G. The Uttarakhand State Transport Department is directed to invoke the provisions of Sections 185, 192-A and 194 of the Motor Vehicles Act, 1988 against the defaulters and violators.
- H. The Uttarakhand State Transport Department shall also register the FIRs' under the relevant provisions of the Indian Penal Code as well as under the Motor Vehicles Act, 1988 against the violators of law involved in over speeding, over loading, use of mobile phones while driving/ jumping of the red-

light. The Transport Department is authorized to seize the mobile phones temporarily for a period of 24 hours after issuing a valid receipt.

- I. The Transport Department is directed to ensure that sufficient buses ply in all inaccessible areas in the State even during Char Dham Yatra for convenience of local commuters.
- J. No private vehicles shall be permitted to fix the crash guards and bull bars/flash lights. All the crash guards, bull bars and flash lights are ordered to be removed within one week by Transport Department.
- K. No motor vehicle shall be permitted to ply beyond the prescribed size. The use of hooters/sirens in private vehicles is banned. Hooters/sirens can be used only by Ambulances, fire tenders and any vehicle going on salvage operation.
- L. The display of designation/description of office and unauthorized emblems on government/private vehicles is banned. Writing of words like High Court, Army, Police, Journalists on private vehicles is also prohibited forthwith. This direction be implemented within 72 hours. This direction shall also cover the Executive Officers including Judicial Officers.
- M. The ITDR shall issue the commercial license only after the completion of mandatory training of one month.

- N. The fitness certificate to every public transport vehicle shall be issued only by the technical staff.
- O. As undertaken by the Secretary Transport, G.P.S. be installed in every public transport bus within a period of six months from today.
- P. The State Transport Department is directed to deploy at least one Officer/Official between 7.00 a.m. to 10.00 a.m. and 3.00 p.m. to 6.00 p.m. to check overloading in school buses/vans. Every bus ferrying students must be accompanied by an attendant. It is made clear that all the school buses/vans throughout the State of Uttarakhand shall have a "Right of Way".
- Q. The notification dated 21.05.2006 is ordered to be implemented in letter and spirit by the law enforcing agencies and the pillion riders on twowheelers shall also use helmets as per ISI specification including women and children above the age of 5 years.
- R. The Secretary, Transport is requested to hold meeting with the Managing Director of the State Transport Corporation to ensure that the buses of the Corporation must ply in the interior most areas for the convenience of local commuters.
- S. All the District Magistrates, throughout the State of Uttarakhand are directed to provide sufficient land for parking the seized vehicles by the Transport Department, as desired by Mr.D. Senthil Pandiyan within three months, to be called "Traffic Awareness Centers", throughout the State of Uttarakhand, as

suggested by Mr. M.S. Chauhan, learned Advocate within a period of three months from today.

T. The Secretary, Transport has undertaken to issue necessary instructions to all the Public Sector Undertakings including Uttarakhand Transport Corporation, GMOU, KMOU and the private operators to wash the buses on day-to-day basis. The hygiene inside the buses shall also be maintained.

U. No transport vehicle shall be permitted to ply beyond the permissible maximum mileage.

18. This Court places on record its appreciation for the assistance rendered by Mr. D. Senthil Pandiyan, Secretary, Transport to the State of Uttarakhand and Additional Transport Commissioner and all learned Advocates. We hope and trust that the directions issued hereinabove shall be implemented in letter and spirit by Mr. D.Senthil Pandiyan and Additional Transport Commissioner.

19. Accordingly, the Misc. Application No. 848 of 2018 is disposed of.

(Rajiv Sharma, J.)

Dated 06.07.2018

Jitendra