

Madras High Court

The Registrar (Judicial) vs The Director General Of Police on 12 December, 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Suo Motu W.P.(MD)No.12892 of 2017

DATED: 12.12.2017

Reserved on : 28.08.2017

W.P.(MD)No.17126 of 2017

Reserved on : 11.09.2017

Delivered on : 12.12.2017

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THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

Suo Motu W.P.(MD) No.12892 of 2017

and W.P.(MD)No.17126 of 2017

The Registrar (Judicial)

Madurai Bench of Madras High Court

Madurai.

W.P(MD)No.12892/2017

...Petitioner in Sua Motu

K.Subbu Ranga Bharathi

...Petitioner in

W.P(MD)No.17126/2017

Vs

1.The Director General of Police  
Chennai.

2.The Inspector General of Police,  
South Zone, Madurai.

3.The Commissioner of Police,  
Madurai.

4.The Superintendent of Police,  
Madurai Rural, Madurai,  
Madurai District.

5.The Commissioner,  
Transport Department, Chennai.

- 6.The Regional Transport Officer,  
North Madurai.
- 7.The Regional Transport Officer,  
South, Madurai.
- 8.The Regional Transport Officer,  
Central, Madurai.
- 9.The General Manager,  
National Highways of India,  
Chennai. ...Respondents in

Suo Motu WP(MD)No.12892/2017 (R5 to R9 are suo motu impleaded vide court order dated 2.8.2017 in WP(MD) No.12892/2017)

1.The Deputy Superintendent Engineer (Highways) (Tirunelveli) Construction and Maintenance, Palayamkottai, Tirunelveli - 627 002.

2.The District Collector, Collectorate Office, Tirunelveli, Tirunelveli District.

3.The Principal Secretary to the Government, Highways and Minor Ports Department, Fort St.George, Secretariat, Chennai - 600 009. ...Respondents in WP(MD) No.17126/2017 Suo Motu W.P.(MD)No.12892/2017 filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, directing the respondents to take preventive or protective measures before erecting the barricades.

W.P.(MD)No.17126/2017 filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, directing the respondents to remove the speed breakers and to remove all the barricades in State Highways SH-40 Kulavanigarpuram Village, Tirunelveli District and AVR MV Girls Higher Secondary School, Ambasamudram, Tirunelveli District.

!For Petitioner

in WP(MD) No.12892/2017 : Mr.D.Venkatesh  
in WP(MD) No.17126/2017 : Mr.P.PethuRajesh

^For Respondents : Mr.M.Govindan

Spl.Govt.Pleader  
for R1 to R8 in WP(MD)No.12892/2017  
for R1 to R3 in WP(MD)No.17126/2017

Mr.Arul Vadivel @ Sekar  
for R9 in WP(MD)No.12892/2017

:COMMON ORDER

(Order of the Court was made by K.K. SASIDHARAN,J.) The Times of India, in its weekly Edition on 9 July, 2017, published a news item "Barricades without reflectors pose a big threat". The news item reveals that the Police, with a view to stop the vehicles coming at a high speed, erected barricades without reflectors and the same often resulted in accidents. The barricades are found erected on all the arterial roads across the State. There are barricades erected by the Police for the purpose of checking the vehicles. According to the newspaper, there are barricades erected just for reducing the speed at multiple locations without any police constables posted near such barricades. The motorists complained to the newspaper that the barricades are visible only from a small distance and the same often results in hitting the vehicles against the barricades. The Police have, at certain places, erected several barricades without maintaining any kind of Distance Rule. The failure on the part of the Police to provide reflectors to the barricades appears to be the cause for several road accidents. We therefore directed the Registry to register a suo motu writ petition impleading the Director General of Police, Chennai, the Inspector- General of Police, Madurai and the Commissioner of Police, Madurai as parties.

2. The Assistant Inspector General of Police filed a counter affidavit on behalf of the Director General of Police. According to the Assistant Inspector General of Police, barricades are required in many places to control the heavy traffic and prevent over speeding of commuters. Similarly, barricades are placed at check points to ensure access control.

3. The Assistant Inspector General of Police admitted that Section 370 of the Motor Vehicles Act provides for erecting sign board before the barricades to give notice to the motorist. The Police department agreed to provide reflecting stickers/materials to be placed on the barricades in such a manner that even in the absence of day light, it would be possible for the drivers to make out the existence of barricades.

4. The Chief General Manager, National Highways Authority of India, in the counter affidavit submitted that there is no provision under the National Highways Act, 1956 to permit erection of barricades on the National Highways. However, without permission, the Police Department has placed temporary barricades to regulate traffic and control speed limit.

5. We have heard the learned counsel for the intervening parties, the learned Special Government Pleader and the learned Standing Counsel for the National Highways Authority of India.

6. The road accidents scenario in the State of Tamil Nadu from the year 2013 to July 2017 is as below:-

YEAR	Total Accidents	Fatal Accidents	No.of Persons Killed	No.of Persons injured
66238	14504	15563	75681	67250
14165	15190	77725	69059	14524
15642	79701	71431	16092	17218
82163	2017 (upto July)	39082	44429	

7. The details of the road accidents happened on National Highways and roads maintained by NHAI is as below:-

YEAR Total Accidents Fatal Accidents No.of persons killed No. of persons injured 20686 24676  
20109 24834 21048 25319 22573 27844 2017 (upto July) 12393 15083

8. The Police have erected barricades on the National Highways and even on the roads under the limits of Corporation and Municipality in a routine manner and without proper permission. The erection of barricades is in such a way that at times it would be very difficult even to negotiate the barricades by the motorists.

9. The Division Bench presided over by Hon'ble Mr.Justice Sanjay Kishan Kaul, Chief Justice (as His Lordship then was), by order dated 25 August, 2014 in W.P.No.22864 of 2014 directed the Secretary to Government, Transport Department and the Director General of Police, to ensure that barricades are placed only at appropriate places with clear reflective material, so that the drivers would be in a position to find out their location when they are on the road. It was a time bound order. However, the fact remains that there was no follow up action taken by the Government or Police Department to comply with the said direction.

10. The photographs produced before us by Thiru.R.R.Kannan, learned counsel who argued the matter in public interest indicates that barricades are also a source of danger to the motoring public. There is no visible sign of the barricades. The heavy vehicles would not be in a position to negotiate the curve temporarily created by erecting the barricades.

#### Directions

11. After hearing the learned counsel for the parties, we are of the view that the following directions would meet the ends of justice:

i) The City Police Commissioners/Additional Commissioner of Police/District Superintendents of Police must approve the place for placement of each barricade in consultation with the officials of the National Highways Authority and the State Highways in case barricades are to be placed on the National Highways and the State Highways. They should also consult the Regional Transport Officers. The Commissioner of Police/ Superintendent of Police must maintain a list of barricades in the area/district with photographs.

ii) Each Barricade should have sufficiently big reflectors on both sides so that the barricades are clearly visible from a distance of at least 100 meters during night. Stripes on the barricade rails shall be alternating orange, fluorescent - red or florescent yellow - green combination.

iii) The Barricades should be placed at adequate distance from each other so that they do not cause acute inconvenience to vehicles especially big vehicles like multi axis trailers, etc.

iv) Blinker lights should be installed at both sides of the barricades to warn the road users regarding barricades.

v) The barricades should be placed in a judicious manner.

v) The jurisdictional Traffic Police and Officers in charge of Law and Order should undertake an exercise forthwith to identify the unwanted barricades and shall take steps to remove them.

vi) The barricades are permissible at the places of accident prone areas in order to control the speed and to avert road traffic accidents at National Highways and other roads with sufficient warning and visibility.

vii) The barricades are also permissible at the places of pedestrian crossing and cross road junctions in order to prevent road accidents at National Highways and other roads with sufficient warning and visibility.

viii) It is open to the Police to erect barricades in urban areas where the centre medians are not erected in order to regulate the traffic as a temporary measure, and after study.

ix) Barricades can be erected in order to divert the traffic during the time of extraordinary law and order situations and during fairs and festivals.

x) Barricades can be used at the district border check post and few other places in order to check the vehicles on the crime point of view.

xi) There must be sign/caution board before the barricades as per Section 370 of MV Act in a legible manner.

xii) The barricade must be manned by either Highway or Transport or Police Officials and wherever possible the speed observative guns, the de- drunken drive checks should be undertaken.

12. The Barricades are procured by the Police from traders and business houses. These barricades are now used as advertisement materials. The Division Bench of this Court has already banned advertisement hoardings at junctions and on the side of the National Highways. Since the Division Bench of this Court directed that no advertisement hoardings should be permitted on highways, it should be the endeavour of the Police not to permit barricades with advertisement materials except informative materials. In short, advertisements should not be permitted on boards or sheets attached to barricades. There should not be any form of writing on the barricades which would divert the attention of the drivers.

13. The petitioner in WP(MD)No.17126 of 2017 filed the writ petition to direct the respondents to remove the speed breakers and barricades erected at the State Highways SH-40 Kulavanigarpuram Village, Tirunelveli District and near AVR MV Girls Higher Secondary School, Ambasamudram, Tirunelveli District.

14. The District Collector, Tirunelveli and the Superintending Engineer, Highways, Tirunelveli along with the District Superintendent must inspect the barricades mentioned in the affidavit filed in support of the writ petition in W.P.No.17126 of 2017 and take a decision as to whether all those barricades are necessary. In case, the authorities are of the view that the barricades are necessary at

certain locations, the same should be erected in such a way that it not a source of danger to the motorists and it must also comply with our directions given above.

15. The writ petitions are disposed of with the above direction. No costs.

To

1.The Director General of Police Chennai.

2.The Inspector General of Police, South Zone, Madurai.

3.The Commissioner of Police, Madurai.

4.The Superintendent of Police, Madurai Rural, Madurai, Madurai District.

5.The Commissioner, Transport Department, Chennai.

6.The Regional Transport Officer, North Madurai.

7.The Regional Transport Officer, South, Madurai.

8.The Regional Transport Officer, Central, Madurai.

9.The General Manager, National Highways of India, Chennai.

10.The Deputy Superintendent Engineer (Highways) (Tirunelveli) Construction and Maintenance, Palayamkottai, Tirunelveli - 627 002.

11.The District Collector, Collectorate Office, Tirunelveli, Tirunelveli District.

12.The Principal Secretary to the Government, Highways and Minor Ports Department, Fort St.George, Secretariat, Chennai - 600 009.

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