

**HIGH COURT OF MADHYA PRADESH: BENCH AT
INDORE**

**D.B.:Hon'ble Shri P.K. Jaiswal
Hon'ble Shri Alok Verma, JJ.**

W.P. No.1901/2016

RAJENDRA K. GUPTA

Versus

SHRI SHIVRAJSINGH COUHAN,
CHIEF MINISTER OF M.P. & ORS.

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Petitioner Shri Rajendra K. Gupta, is present in person.

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ORDER

(Passed on 29th day of March, 2016)

Per P.K. Jaiswal, J:-

The petitioner has filed the instant public interest litigation, with the relief to stay the process of issuance of e-challans with the help of Close Circuit Television Footage by Road Transport Officer and e-challans which have already been issued be cancelled and the amount recovered on the basis of e-challans shall be returned to all concerned. He has also prayed for issuance of writ of mandamus, directing all the concerned authorities to keep CCTV recording in custody till the end of process.

2. The petitioner has also impleaded the Chief Minister, Home Minister of the State, Chief Secretary, Government of Madhya Pradesh; Director General of Police, Bhopal; Inspector General of Police, Indore Division, Indore; Deputy Inspector General of Police, Indore Division, Indore; Commissioner, Municipal

Corporation, Indore; Superintendent of Police (Traffic), Indore; Deputy Superintendent of Police by name. In page No.3 of the writ petition, he has also mentioned the name of Hon'ble the President of India. Last paragraph of writ petition at page 6 and paragraph No.3 at page No.4 are relevant, which read, as under: -

“पीआईएल याचिका/आवेदन दाखिल करने के मुख्य आधार :- 01. नियम विरुद्ध एवं शासन के द्वारा प्रक्रिया शुरू किए बिना एवं ई-चालान की अनुमति/अधिसूचना/नोटिफिकेशन जारी किए बिना ई-नोटिस, फोटो युक्त नोटिस भेज कर चालान की राशि, डॉक व्यय व अन्य व्यय यातायात पुलिस विभाग इंदौर के द्वारा वसूलने के संबंध में याचिकाकर्ता के द्वारा मा. **श्री शिवराजसिंह जी चौहान** मुख्यमंत्री, मा. **श्री बाबूलाल जी गौर गृहमंत्री**, **श्री एंटोनी डिसा** मुख्य सचिव म.प्र. शासन भोपाल, श्री प्रमुख सचिव गृह मंत्रालय म.प्र. शासन, भोपाल, श्री दुबे जी संभागायुक्त इंदौर, **श्री संतोष कुमार सिंह** डीआईजी इंदौर, श्री मनीष सिंह जी निगमायुक्त सहित वरिष्ठ अधिकारियों के समक्ष मय दस्तावेजों के उक्त व निम्न बिन्दुओं के संबंध में दिनांक 02/02/2016 एवं 15/02/2016 एवं 23/02/2016 व अन्य दिनांक को लिखित शिकायतें दर्ज करवाई, किन्तु कोई कार्यवाही नहीं की गई, ना ही केमरों के माध्यम से फोटो बना कर ई-नोटिस भेज कर चालान व अन्य व्यय की राशि वसूलना बंद किया । **ऐनेक्चर -2** (शिकायतों की प्रतियां)

02. चौराहो, तिराहो व अन्य सीनों पर स्टॉप लाईन, जेब्रा लाईन (झेब्रा लाईन) स्पीड ब्रेकर आदि बनाने के नियमों का पालन नहीं किया जा रहा है, कहीं भी, कितनी भी दूरी पर नियमों का पालन किए बिना निर्धारित मापदण्डों के पूर्ण विपरीत, मनमर्जी से चौराहो, तिराहों व अन्य स्थानों पर स्टॉप लाईन, जेब्रा (झेब्रा लाईन) बना देने आदि कारण यातायात अव्यवस्थित हो रहा है और जनता यातायात नियमों का पालन नहीं कर पा रही है।

03. राज्य शासन ने अभी ई-चालान बनाये जाने के लिए इंदौर में प्रक्रिया ही प्रारम्भ नहीं की है। यह मा. श्री बाबूलाल जी गौर गृहमंत्री म.प्र. शासन के द्वारा विधानसभा में प्रश्न कं 736 अंतरांकित दिनांक 09/12/2015 के उत्तर में दिए गए जवाब से प्रमाणित होता है अर्थात् यह भी प्रमाणित होता है कि इंदौर यातायात पुलिस के अधिकारियों द्वारा विधायिका/चुनी हुई सरकार/केबिनेट/शासन के क्षेत्राधिकार का भी उल्लंघन किया जा कर उनके क्षेत्राधिकार का हनन भी किया है। **ऐनेक्चर - 3** (विधानसभा जवाब की प्रतिलिपी)

04. टेक्नोसिस कम्पनी के कर्मचारियों के साथ साठ-गांठ कर यातायात पुलिस विभाग के अधिकारी/थाना प्रभारी फर्जी तरीके से फोटो बना कर ई-नोटिस, फोटो युक्त नोटिस भेज कर जनता से

जबरन वसूली कर रहे है।

05. चौराहों पर लगे केमरें बार-बार और कईबार बंद हो जाते है। केमरों की वीडियो रिकार्डिंग व अन्य साक्ष्य आरटीआई के तहत मांगने पर नही दिए जाते है और बहाना बना दिया जाता है 30 दिन के बेक अप का।

06. जिस अवधि में चौराहे पर लगे केमरे बंद रहते है उस अवधि के भी ई-नोटिस, फोटो युक्त नोटिस भेजे जा रहे है। ”

“03. फर्जी तरीके से फोटो बना कर ई-नोटिस, फोटो युक्त नोटिस भेजना और व्यय सहित राशि की वसूली करना। 04. पद और अधिकारियों का दुरुपयोग करना। 05. पुलिस और अन्य कर्मचारियों का डर दिखाकर जनता को डराना 06. न्यायपालिका का दुरुपयोग करना। 07. जनता से सरकार की छवि खराब करना। 08. स्टॉप लाईन, जेब्रा (झेब्रा) लाईन, स्पीड ब्रेकर आदि बनाने के नियमों का पालन नही करना। 09. यातायात में सुधार नही होना क्योंकि जिम्मेदारों के द्वारा नियमों का पालन नही करने से जनता की सहभागीता प्रशासन, यातायात पुलिस को नही मिल पाती है क्योंकि जनता में भारी रोष रहता है, जनता चिढ़ी रहती है। किसी भी योजना के लागू होने पर उसके सफल होने और विकास के लिए यह बड़ी हानि है। 10. यातायात व्यवस्था ठीक करने, सम्भालने की बजाए अधिकतर समय जनता से चालान बना कर जबरन राशि की वसूली में पुलिस अधिकारियों, कर्मचारियों का लगा रहना। टारगेट की तरह राशि वसूली जाती है जिससे यह प्रमाणित होता है कि जानबूझकर और जबरन चालान बनाये जाते है व अन्य। ”

3. The contention of the petitioner is that the Traffic Police have no power to issue e-notice on the basis of the recording of the CCTV camera, nor they have any power to issue e-challan on the basis of the footage of CCTV recording in violation of the Traffic Rules and prayed for the following relief: -

“मांग/राहत :- तत्काल ई-नोटिस, केमरों के माध्यम से फोटो बना कर नोटिस भेज कर चालान की राशि वसूले जाने पर रोक लगाई जाए, अब तक भेजे गए समस्त एवं पेंडिंग ई-नोटिस और फोटो युक्त नोटिसों को निरस्त किया जाए, स्ऑप लाईन, जेब्रा लाईन (झेब्रा लाईन) स्पीड ब्रेकर बनाने के नियमों का पालन करवाया जाँ, बिना प्रक्रिया पूर्ण किए ई-नोटिस, केमरों से फोटो बना कर के चालान की वसूली गई राशि जनता को मय ब्याज के लौटाई जाने, केमरों की वीडियो रिकार्डिंग का रिकार्ड चालान के निराकरण तक रखने एवं अनुशासनात्मक एवं दण्डात्मक कार्यवाही करने का आदेश देने का

निवेदन है।

4. The issuance of e-challan to the persons, who are violating the Traffic Rules, is going on all over the world. None of the persons aggrieved, who have deposited challan, are aggrieved by any action of the Traffic Police. The Traffic Police to provide smooth movement of traffic and to follow the Traffic Rules by four wheelers and two wheelers installed CCTV Cameras on public roads, so that if any person, violates the Traffic Rules, appropriate action be taken against them under the Traffic Rules. This practice and procedure is going on all over the world.

5. The petitioner is challenging the action of the Traffic Police, and therefore, he has wrongly impleaded them as a necessary party; that too, by their names.

6. It is not the case of the petitioner that by issuing e-challan, the respondents are violating any administrative guidelines / circulars not having statutory force and causing any legal injury to the writ petitioner.

7. The full Bench of this Court in the case of ***Chingalal Yadav V/s. State of M.P.*** reported as 2010 (2) MPLJ 443 has held that the Courts interference with policy is erroneous or on the ground that a better fairer or wiser alternative is available. Legality of the policy and not the wisdom of the policy is the subject matter of judicial review. The Courts in exercise of their powers of judicial review, do not ordinarily interfere with the policy decision of the executives unless the policy can be faulted with

arbitrariness, unreasonableness or unfairness etc.

8. In the present writ petition by name impleaded Hon'ble Chief Minister, Chief Secretary, Director General of Police, I.G. Police, DIG Police, Commissioner – Municipal Corporation, Indore, Superintendent of Police (Traffic), Indore, Deputy Superintendent of Police whereas, there is no ground to assume that they acted '*mala fide*'. It is well settled that the allegations regarding '*mala fide*' cannot be vaguely made. It must be specific and clear and the persons against whom, it is alleged must be made party. The law casts a heavy burden on the person alleging '*mala fide*' to prove the same on the basis of facts that are either admitted or satisfactorily established and / or logic inference deducible from the same. This is particularly so when the petitioner alleges malice in fact in which event it is obligatory for the person making any such allegation to furnish particulars that when number of '*mala fides*' on the part of the decision maker vague and general allegations unsupported by the requisite particulars do not provide a sound basis for the Court to conduct an enquiry into their veracity.

9. In the present case, on 31.12.2013, the Director General Police has taken a decision to install Intelligent, Traffic Management System CCTV capable of generating e-challan for city Indore for smooth running of traffic. After implementation of the aforesaid scheme, tender was invited and CCTV camera was installed for the period from January 2015 to January 2016. E – notices have been

issued from 15 squares. Total 42310 notices have been issued from RLVD system cameras, which was installed in 14 squares and fine was imposed. None of the person to whom fines were imposed from time to time challenged the same or filed as such writ petition nor aggrieved by the aforesaid action.

10. It may not be out of place to refer to the report given by three member Committee head by Justice K.S. Radhakrishnan appointed by the Honourable Supreme Court, by order dated 22.04.2014, to scrutinize and monitor the enforcement of statutory provisions including the Motor Vehicles Act for making the road safer. The said Committee has held in its report dated 19.08.2015 that unless strong and urgent measures are taken to deal with speeding, drunken driving, red-light jumping, violation of helmet laws and seat belt laws, use of mobile phones while driving and overloading, a number of accidents and fatalities will continue to remain high. The Committee asked the Chief Secretaries of all States and Union Territories to take stern action against violators of law under the provisions of Section 19 of the Motor Vehicles Act, 1988, read with Rule 21 of the Central Motor Vehicles Rules, 1989, by passing an order disqualifying the offender from holding the driving licence for a specified period and also by sending to imprisonment wherever it is provided under the law. It also directed that the helmet laws be made applicable all over the country, both for main and pillion riders and suggested two wheeler owners to carry

an extra helmet with them. When the Committee constituted by the Hon'ble Apex Court itself has come out with many strong and stringent measures to deal with traffic offences, the directions given by the State Government and District Collector are in consonance with the provisions of law.

11. The Apex Court also in the case of **S. Rajasekaran v. Union of India & others** reported in **(2014) 6 SCC 36** directed the Government of each State to effectively implement and enforce all the provisions of the Motor Vehicle Act in respect of which, the States have the authority and obligation to so act under the Constitution.

12. It is well settled law that, there must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting *bona fide* and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration and prayed for dismissal of the writ petitions [see **Kusum**

Lata V/s. **Union of India & Ors.**, reported as 2006 (7) Scale 41].

13. For these reasons, we are of the view that the writ petition filed by the petitioner has devoid of any substance and he has without any material impleaded number of persons by their names for publicity purpose only and, therefore, we dismissed the writ petition with cost of Rs.10,000/-. Cost amount be deposited within a period of six weeks from today, failing which the respondents are free to take appropriate action for recovery of the cost amount.

(P.K. JAISWAL)
JUDGE

(ALOK VERMA)
JUDGE

Pithwe RC
SS/-