

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/FIRST APPEAL NO. 4889 of 2018**

**With**

**CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2018**

**In R/FIRST APPEAL NO. 4889 of 2018**

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**UNITED INDIA INSURANCE CO. LTD.**

**Versus**

**KEVALJI LUMBAJI HARIJAN(DABHI) & ORS.**

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Appearance:

MR RATHIN P RAVAL(5013) for the Appellant(s) No. 1

MR GH VIRK, GOVERNMENT PLEADER with  
MS DHARITRI PANCHOLI & MR MAYANK CHAVDA, ASSISTANT  
GOVERNMENT PLEADERS for the Defendant(s) No. 7 – State Authorities

MR HIMANSU M PADHYA(1611) for the Defendant(s) No. 1,2,3,4

MR VISHAL C MEHTA(6152) for the Defendant(s) No. 6

NOTICE SERVED for the Defendant(s) No. 5,8,9

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**CORAM:HONOURABLE MR. JUSTICE SANDEEP N. BHATT**

**Date : 14/08/2024**

**ORAL ORDER**

Pursuant to the order dated 22.07.2024 of this Court, today, Mr. G.H. Virk, learned Government Pleader, assisted by Ms. Dharitri Pancholi and Mr. Mayank Chavda, learned Assistant Government Pleaders for the State Authorities has tendered the affidavits of :- (i) the Commissioner of Transport – Respondent No.7 (ii) the Secretary, Home Department – Respondent No.8 and (iii) the

Superintendent of Police, State Traffic Branch, Director General and Inspector General of Police – Respondent No.9 before this Court. The same are taken on record. Copies of the same are served to learned advocate Mr.Rathin Raval appearing for the appellant. Learned Government Pleader Mr. Virk has submitted that today, Ms.Monika Bheda, Under Secretary, Home Department, Sachivayala, Gandhinagar, Mr.Jitendra Agrawal from the State Traffic Branch, Mr. V.P. Patni (GAS), Additional Collector, Transport Commissioner (Enforcement) and Mr. J.J. Patel (GA), Additional Collector, Regional Transport Officer, Ahmedabad are present before this Court.

Learned advocate Mr.Raval has some reservation or suggestions pursuant to such affidavits, to which, he will file affidavit.

Mr.Virk, learned Government Pleader has addressed the Court with reference to the directions given in the earlier order and has submitted that the State Authorities are vigilant and trying to implement the directions given by this Court in best possible manner and will ensure that the system will be improved and result will be seen in very near future, even at ground level.

The Court has indicated certain lacuna in the system, more particularly, pertaining to functioning of Regional Transport Authority whereby the issuance of licence is taking time of more than one month in many cases. The registration of necessary endorsement in the registration book regarding change of ownership is also taking months in many cases. Further, the issues regarding fitness certificate and issuance of permit and thereafter, carrying out the inspection of such vehicle on the road by inspecting that such vehicles are having valid permit or not is also required to be improved in better manner.

Needless to say that the authorities, who are discharging their duties towards the public at large, are expected to discharge their duties with all integrity and with due diligence and according to the provisions of the statute i.e. the Motor Vehicles Act and the Motor Vehicles Rules and other rules regarding such procedure to be carried out.

It is also expected that the traffic police who is responsible to implement the rules of the traffic on roads are also required to be occupied in more convincing manner and also public at large will think in a manner that their work will be done without any anticipation about some improper demand from such person under the guise of the enforcement

of the rules.

Therefore, let the concerned authorities look into this aspect to find out the solution to see that no person who is responsible for enforcement of any Rules/Act will undue harass any innocent citizen at that time and take appropriate action against such person who will commit willful default in observing any Rules under any statute, but that cannot be used as a lever to ask for any undue demand or to extract money. The law enforcement agencies will act diligently and with care and caution, perform their statutory as well as moral duties.

This Court is of the view that necessary improvement is required to be carried out in the system which is existing today, though the efforts which are now initiated by the respondent authorities are required to be appreciated about the initiation of such efforts, but, the Court is expecting to see that the authorities will discharge their duties morally as well as statutorily without any default or without any ill-will and law & order situation as well as the issue regarding traffic as well as issue with regard to avoid accidents, due to which the citizens are receiving injuries or even fatality is caused due to such accidents which can be minimized or can be avoided.

Let the respective authorities who are responsible to take action may improve its functioning and submit further report by way of affidavit after four weeks from today regarding the action taken during this period as well as future action plan to improve the functioning of the system which ultimately benefits to the public at large.

The Secretary, Home Department as well as DGP of State may also look into the matter as well as the Commissioner of Transport will also monitor this issue and give proper guidance to the officers concerned, so that such accidents on highways can be minimised and fastening liabilities on the insurance company or avoiding liability by the insurance company due to non-performing of such requirements which will be required to be addressed in appropriate manner and therefore, the authorities will also propose the future action place about fixing the accountability and liability of erring officer who could be considered accountable for such repeated accidents, which may happen in future in the particular area and thereafter, the proposed action against such erring officer. That aspect will also cover in the further affidavit to be filed by the State Authorities.

Stand over to 18.09.2024.

The affidavit shall be filed by learned advocate for applicant Mr.Raval, if he wishes, on or before 13.09.2024.

The affidavit by the State Authorities concerned shall be filed on or before 13.09.2024 by serving the advance copy to the other side.

It is also needless to say that the efforts and interest taken by the learned Government Pleader Mr.G.H. Virk as well as learned Assistant Government Pleader Mr. Mayank Chavda, as officers of the Court are appreciated and this Court is expecting better results pursuant to their efforts which can be visible at the ground level in coming days.

If required, learned Government Pleader will call the concerned officers to assist the Court on the next date of hearing.

M.H. DAVE

**(SANDEEP N. BHATT,J)**