

Abhay Singh vs State Of Uttar Pradesh & Ors on 10 December, 2013

Equivalent citations: AIR 2014 SUPREME COURT 427, 2013 AIR SCW 6931, 2014 (1) ALL LJ 561, (2014) 135 ALLINDCAS 176 (SC), (2014) 2 MAD LW 698, 2013 (15) SCALE 26, 2013 (15) SCC 435, (2014) 1 CLR 127 (SC), (2014) 2 TAC 522, (2014) 103 ALL LR 248, (2014) 1 ALL WC 1, AIR 2014 SC (CIVIL) 387, 2014 (1) KER LT 14 SN, (2014) 1 PAT LJR 151, (2013) 15 SCALE 26, (2014) 1 WLC(SC)CVL 189, (2014) 1 JLJR 186, (2013) 4 CURCC 329, (2014) 2 ANDHLD 50, (2014) 1 RECCIVR 714

Bench: C. Nagappan, G.S. Singhvi

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION NO.(C) No.25237/2010

Abhay Singh

....PETITIONER

versus

State of Uttar Pradesh and others

...RESPONDENTS

with

SPECIAL LEAVE PETITION(C) No.23984/2010

Abhay Singh

....PETITIONER

versus

Union of India and another

....RESPONDENTS

O R D E R

G.S. SINGHVI, J.

One of the several questions of public and constitutional importance raised by Shri Harish Salve, learned senior counsel, who initially appeared on behalf of the petitioner in the special leave petitions filed against order dated 21.8.2009 passed by the Division Bench of the Allahabad High Court in C.M.W.P. No. 15440 of 1998 quashing the withdrawal of “Z Grade Security” provided to Respondent No.6-Pramod Tiwari, but later on assumed the role of an Amicus, is whether the Constitution contemplates categorization of citizens into two groups and whether the entitlement to use signs and symbols of authority, such as lights of different colours including red lights, insignia, and convoys/escorts by public servants and persons, who hold public offices under the States or the Union of India, is contrary to constitutional ethos and the basic feature of republicanism enshrined in the Constitution.

Notice of the special leave petitions was issued on 25.8.2010. After an adjournment, the Court passed detailed order dated 14.10.2011, which reads as under:

“Although, the prayer made in this petition filed under Article 136 of the Constitution is for setting aside the order passed by the Division Bench of Allahabad High Court directing consideration of the case of respondent No. 6 for providing 'Z' category security to him and his family members, at the hearing Shri Harish N. Salve, Learned Senior counsel for the petitioner submitted that de hors the facts of the case, the Court should examine important issues affecting an important facet of the Constitutional democracy i.e. whether the country should have two categories of citizens, of which one enjoys all sorts of privileges including unwanted security at public expense and is also allowed to use different kinds of symbols which represented the authority of the State in pre-independence era and the fundamental rights to life and liberty of other category are not protected. Shri Salve suggested that the following questions may be considered by the Court:

1. Whether the permission to use signs and symbols of authority, such as beacons, insignia, and convoys/escorts by public servants or any person who holds any office under the States or the Union of India, or any other person, is contrary to Article 18 and 38 and the basic feature of republicanism enshrined in the Constitution?
2. Whether the State was and is under an affirmative obligation to ensure that the vision of the founding fathers to change the perception of the State and its functionaries from rulers to public servants who are to serve rather than govern the people, was implemented in letter and spirit?
3. Whether by virtue of Article 21 read with Article 14, State is under an obligation to afford the same degree of protection to the safety and security of every person

irrespective of any office held by such person or status of such person or any other factor?

4. Whether the grant of protection [by way of escorts or otherwise], particularly at the expense of the State, on the basis of an office held by a person or any other factor [other than a perceived need to grant heightened protection on account of aggravated threat to the life of any person on account of his lawful occupation, assessed on an objective basis] is illegal, ultra vires and unconstitutional?

5. Whether the State is under an obligation to ensure that any heightened protection granted to any person, or any special security arrangements made for any person, holding public office, is done in a manner that does not violate the principle of republicanism and the provisions or Art. 18 and 21 of the Constitution?

Shri Pallav Shishodia, learned senior counsel appearing for respondent No.6 says that the questions proposed by the learned counsel appearing for the petitioner are of great public importance and he will have no objection if same are considered by the Court. He also suggested that the Court may suo motu order impleadment of all the States and Union Territories as parties so that they may also make appropriate submissions. We have considered the submissions of the learned counsel and are prima facie satisfied first four of the five questions framed by Shri Salve would require detailed examination. Let notice be issued to all the States and Union Territories through their Secretaries, Home Department so as to enable them to file their written response in the context of question No. 1 to 4 framed by learned senior counsel appearing for the petitioner. Notice is returnable in six weeks.

Keeping in view the importance of the questions framed hereinabove, we request the learned Solicitor General to assist the Court.” On 17.1.2013, the Court considered the prayer made in the application filed on behalf of the SLP petitioner and passed the following order:

"Shri Harish Salve, learned senior counsel representing the petitioner in S.L.P.(C) No.25237 of 2010 place before the Court an application for direction in which it has been prayed that a direction may be issued to all the States and Union Territories to furnish information under the following headings:

(a) The Rules, Orders or Guidelines, if any, in the State which prescribe the policy for permitting Red Lights on vehicles to various persons in the state.

(b) The Rules, Orders or Guidelines, if any, in the state which prescribe the policy of the state for permitting security personnel to individuals.

(c) The Names and the designation of the persons to whom security personnel have been provided and the number of security persons provided to them.

(d) Total cost borne by the state for providing security in terms as aforesaid.

(e) Total number of security personnel in the state and the total number of such personnel who are engaged in (i) Maintaining Law and Order, (ii) Crime Prevention and investigation and (iii) Traffic Management.

Learned counsel for the States and Union Territories must ensure that affidavits of the responsible officers of the Home Department of their respective States and Union Territories are filed within three weeks from today. Any lapse in this regard will be viewed seriously.

For further consideration, list the cases on 07.02.2013."

On the next effective date of hearing, i.e., 14.2.2013, the Court took into consideration two notes made available by the learned Amicus and passed detailed order, the relevant portions of which are reproduced below:

"Before considering the issues raised in the 2nd note made available by Shri Salve, we deem it proper to issue the following directions:

1. All the State Governments and the Administration of Union Territories shall furnish the details of the total expenses incurred in providing security to public functionaries and private individuals other than holders of the constitutional office like the President, the Vice-President, the Prime Minister, the Speaker of the Lok Sabha, the Chairman of the Rajya Sabha and the Chief Justice of India and their counter parts in the States and Union Territories.
2. Total number of persons other than the dignitaries, to whom reference has been made in the preceding paragraph, to whom security has been provided at the State expense giving the details of number of persons of various cadres deputed for providing security to the various persons.
3. The details of the security provided to the children and other family members / relatives of the public functionaries within or outside the State/Union Territory.
4. The details of the persons who are facing criminal charges, charges of violating any provisions of law and to whom security has been provided at State expense.
5. The details of the private individuals to whom the security has been provided at the cost of public exchequer, whether in lieu of payment made by them or otherwise.
6. Each State Government/Union Territory shall security provided to public functionaries and provide details of the review undertaken of the private individuals.
7. All the States and Union Territories shall file copies of the Rules/Orders which authorises the police and other functionaries to close roads for movement of public functionaries or their visits.

8. The notifications issued by the Central Government, State Governments and the Union Territories authorising use of Sirens other than by the man in uniform and those engaged and providing medical facilities to the patients and victims of accidents."

When the case was taken up for hearing on 3.4.2013, Shri Harish N. Salve made submissions with reference to the following three questions:

- "1. Whether the use of beacons red-light and sirens by persons other than high constitutional functionaries is lawful and constitutional?
2. Whether the provision of security to persons other than the constitutional functionaries without corresponding increase in sanctioned strength and without a specific assessment of threat is lawful and constitutional?
3. Whether the closure of roads for facilitating movement of VIPs is lawful and constitutional?"

Further arguments were heard on 4.4.2013 and certain directions were issued in the light of the provisions of the Motor Vehicles Act, 1988 (for short, 'the 1988 Act'), the Central Motor Vehicles Rules, 1989 (for short, 'the 1989 Rules') and the Rules framed by the State Governments, the relevant portions of which are extracted hereunder:

"The Motor Vehicles Act was enacted in 1988 and the Rules were framed by the Central Government and various State Governments in 1989. The legislative bodies and the authorities have not thought it proper to make appropriate amendments to bring the provisions of the Act and the Rules in conformity with the aspirations of the people of a republic and even now a small section of the society considers itself to be as a special category as compared to other citizens. This appears to be the primary reason why the Governments after Governments have issued notifications under Section 6 of the 1988 Act and the rules framed thereunder authorizing the use of beacons on government vehicles (some persons use such beacons even on private vehicles). The time has come when the use of beacons on the vehicles, government or non- government is drastically restricted so that the people's right to freedom of movement is not hindered in any manner whatsoever.

Learned counsel representing some of the State Governments have not controverted the assertion made by Shri Salve that not only the high dignitaries on duty but large number of other elected and non-elected persons are allowed to use beacons and sirens/hooters causing serious inconvenience to the general public using the roads and even otherwise.

Shri Salve also brought to our notice the fact that the vehicles of the State neighbouring NCT of Delhi use beacons with flashers and sirens even though they are

not permitted to do so in the NCT of Delhi.

With a view to ensure that menace of beacons on vehicles and use of sirens is stopped except in the cases of heads of the constitutional institutions, we deem it proper to give an opportunity to the Central Government as also the Governments of all the States and the Administration of the Union Territories to amend the relevant provisions of the Rules and the notifications issued under Rule 108 of the Central Motor Vehicles Rules, 1989 and corresponding provisions in the State Rules as also Rule 119 for restricting the use of beacons by the heads of political executive, legislature and judiciary only and total prohibition on the use of siren except by police, ambulance, fire fighters, Army and those permitted in Rule 119(3) of the 1989 Rules and the corresponding Rules framed by the State Governments.

We also deem it proper to indicate that it will be prudent for the Central Government and the State Governments as well as the administration of the Union Territories to substantially increase the fine for violation of the provisions of the 1988 Act and in particular those relating to the matters indicated hereinabove.” Shri Mohan Parasaran, learned Solicitor General, Shri Sidharth Luthra, learned Additional Solicitor General representing the Union of India and Delhi Administration respectively, and Shri Gaurav Bhatia, learned Additional Advocate General, Uttar Pradesh agreed that unauthorized use of red lights on motor vehicles and multi-toned horns deserves to be dealt with sternly and exemplary fine should be imposed on the violators.

After considering their statement, the Court adjourned the case to enable them to get in touch with the concerned authorities to find out a possible administrative and legislative solution to this menace. However, neither the Central Government nor the State Governments took any step for checking the menace of unauthorized use of red lights and multi-toned horns.

On the next date of hearing, i.e., 19.8.2013, the Court heard the arguments on the interpretation of Rules 108 and 119 of the Central Motor Vehicles Rules, 1989 and notification dated 11.1.2002 issued by the Central Government. Thereafter, the learned Solicitor General made available a short note on behalf of the Union of India (Ministry of Road, Transport and Highways) and the learned Amicus handed over note containing the gist of his submissions. Two further notes were made available on 4.10.2013 by Shri Sushil Kumar Jain, Senior Advocate representing the SLP petitioner.

Shri Harish Salve, learned Amicus pointed out that Rule 108(1) imposes total prohibition against showing a red light to the front or light other than red to rear and that exemption envisaged by proviso (iii) to Rule 108(1) is limited to a vehicle carrying “high dignitaries” as specified by the Central Government or the State Governments, from time to time. Shri Salve emphasized that even though the term

“high dignitaries” has not been defined in the 1988 Act and the 1989 Rules, keeping in view the Preamble of the Constitution which talks of equality of status and the dignity of individual, that term must be given a restricted interpretation to include only Heads of three wings of the Republic, i.e., the President, the Vice-President, the Governors of the States, the Prime Minister, the Chief Ministers, Speaker of the Lower House of Parliament, Speakers of Legislative Assemblies and Chairmen of Legislative Councils and the Chief Justice of India and the Chief Justices of the High Courts. He submitted that while the Central Government has restricted the use of red light with or without flasher on the top front of a vehicle carrying high dignitaries who have been specified in Notification dated 11.1.2002, as amended by Notification dated 28.7.2005, and that too while on duty, the State Governments have exercised the rule making power under Section 110 and allowed the use of red lights with or without flasher by a very large number of public representatives at various levels as also the public servants and made a mockery of the object of proviso (iii) to Rule 108(1). The learned Amicus submitted that the use of red light with or without flasher on the top of the government vehicles allotted to a large body of public representatives and civil servants has become a status symbol and those using such vehicles treat themselves as a class different than ordinary citizens. According to Shri Salve, the widespread use of red lights on government vehicles in the country is reflective of the mentality of those who served British Government in India and treated the natives as slaves. He drew our attention to the rules framed by various State Governments and the notifications issued permitting use of red lights with or without flasher on the top of the vehicles to show that the idea of permitting red light on the vehicle carrying “high dignitaries” has been reduced to a farce.

Shri Salve also referred to Rule 119 of the 1989 Rules and argued that despite total prohibition on use of multi-toned horns, vehicles used by public servants of different categories are indulging in rampant violation of the prohibition. Shri Salve pointed out that in terms of Rule 119(3), only in the vehicles used as ambulances or for fire fighting or salvage purposes or vehicles used by police officers or operators of construction equipment vehicles or officers of the Motor Vehicles Department in the course of their duty or on construction equipment vehicles, the registering authority can permit use of multi-toned horns, but such horns are being used by public representatives from the lowest to the highest level and civil servants of every possible category and those entrusted with the task of enforcing these provisions contemptuously overlook the violations.

Shri Mohan Parasaran, learned Solicitor General argued that in the absence of challenge to the vires and constitutionality of Rule 108, this Court cannot impose restriction on the power of the Central Government to specify the vehicles carrying “high dignitaries” which may be permitted to use red light with or without flasher. He further argued that there is no valid reason to give a restricted meaning to the term “high dignitaries” and it should be left to the Central and the State Governments to specify the “high dignitaries”. According to the learned Solicitor General, the vehicles

carrying certain dignitaries and category of officials constitute a class by themselves and no illegality has been committed by the State Governments by allowing use of red lights on the vehicles carrying a large number of public representatives and public servants. He submitted that fixing of red lights on the vehicles used by civil servants is essential for effective discharge of their duties. Learned Solicitor General submitted that such use of red lights facilitates the movement of public representatives and civil servants. He then submitted that clause (e) of notification dated 11.1.2002 contains conditions for exercise of power by the State Government to grant exemption and argued that in some cases, the State Government might have violated the conditions specified in notification dated 11.1.2002, but that cannot be a ground for restricting the use of red lights on the vehicles used by government officers.

Shri Parasaran submitted that (1) men in uniform; (2) operational agencies which require un-hindered access to the road for performance of their duty; (3) those engaged in emergency duties such as ambulance services, fire services, emergency maintenance etc; and (4) officials in Districts, etc., such as Divisional Commissioner, DM, ADM, SDM, Executive Magistrates or where their functional requirements necessitate smooth, fast and easy passage in certain circumstances, are not entitled to use red light on their vehicles but lights of other colours, e.g., blue, white, multicoloured etc. On the issue of use of multi-toned horns, the learned Solicitor General submitted that Rule 119(2) imposes total prohibition on the fittings of such horns on any vehicle subject to the exceptions specified in clause (3) thereof and the Union of India is fully committed to ensure total compliance of the prohibition.

Shri Siddharth Luthra, learned Additional Solicitor General supported the argument of learned Solicitor General and submitted that the term “high dignitaries” should be so interpreted as to include all those who are holding constitutional offices, i.e., the President, the Vice-President, the Prime Minister, the Speaker of Lok Sabha, the Chief Justice of India, the Judges of the Supreme Court, Chairman of the Union Public Service Commission, the Comptroller and Auditor General, the Chief Election Commissioner and their counterparts in the States. Shri Luthra also emphasized that use of the lights of different colours on the vehicles carrying civil servants is absolutely imperative because that facilitates their movement and enables them to effectively discharge their duties.

We have considered the respective arguments and perused the provisions of the 1988 Act, the 1989 Rules as also the Rules framed by various State Governments and Administration of Union Territories. We have also gone through notifications dated 11.1.2002 and 28.7.2005 issued by the Central Government under proviso (iii) to Rule 108(1) of the 1989 Rules.

The basics of Indian Republic were outlined in the Resolution moved by Pandit Jawahar Lal Nehru in the meeting of the Constituent Assembly held on 13.12.1946. The relevant portions of the same are extracted below:

"(1)This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution; (2)WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and (3) WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the Law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom; and (4) WHEREIN all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people; and (5)WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith worship, vocation, association and action, subject to law and public morality; and (6)WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and (7)WHEREBY shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to Justice and the law of civilised nations, and (8)this ancient land attains its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind.

I hope, the House will notice that in this Resolution, although we have not used the word 'democratic' because we thought it is obvious that the word 'republic' contains that word and we did not want to use unnecessary words and redundant words, but we have done something much more than using the word. We have given the content of democracy in this Resolution and not only the content of democracy but the content, if I may say so, of economic democracy in this Resolution.

The Resolution placed before you to-day has equality as its underlying theme. The different sections of the country have been given autonomy and India as a whole remains one with full sovereignty. We shall stand united in affairs which demand our unity. The one important thing in the Resolution is the recognition of India as a free country. Our country is one and yet we shall give full freedom to its various sections to have for themselves whatever administration they liked. The present division of our country into provinces may change. We shall do justice to all communities and give them full freedom in their social and religious affairs.

The word 'people' means all the people. I am myself a servant of the farmers. To work with them is my highest glory. The term 'people' is comprehensive and contains all the people, It is, therefore, my opinion that no adjective should be attached to it." (emphasis added) On 15.8.1947, Dr. Rajendra Prasad addressed the Constituent Assembly of India wherein he identified the roles of various sections of the society and the Government. The English translation of the address is reproduced

below:

“Let us in this momentous hour of our history, when we are assuming power for the governance of our country, recall in grateful remembrance the services and sacrifices of all those who laboured and suffered for the achievement of the independence we are attaining today. Let us on this historic occasion pay our homage to the maker of our modern history, Mahatma Gandhi, who has inspired and guided us through all these years of trial and travail and who in spite of the weight of years is still working in his own way to complete what is left yet unaccomplished.

Let us gratefully acknowledge that while our achievement is in no small measure due to our own sufferings, and sacrifices, it is also the result of world forces and events and last though not least it is the consummation and fulfilment of the historic traditions and democratic ideals of the British race whose farsighted leaders and statesmen saw the vision and gave the pledges which are being redeemed today. We are happy to have in our midst as a representative of that race Viscount Mountbatten of Burma and his consort who have worked hard and played such an important part in bringing this about during the closing scenes of this drama. The period of domination by Britain over India ends today and our relationship with Britain is henceforward going to rest on a basis of equality, of mutual goodwill and mutual profit.

It is undoubtedly a day of rejoicing. But there is only one thought which mars and detracts from the fulness of this happy event. India, which was made by God and Nature to be one, which culture and tradition and history of millenniums have made one, is divided today and many there are on the other side of the boundary who would much rather be on this side. To them we send a word of cheer and assurance and ask them not to give way to panic or despair but to live with faith and courage in peace with their neighbours and fulfil the duties of loyal citizenship and thus win their rightful place. We send our greetings to the new Dominion which is being established today there and wish it the best luck in its great work of governing that region and making all its citizens happy and prosperous. We feel assured that they all will be treated fairly and justly without any distinction or discrimination. Let us hope and pray that the day will come when even those who have insisted upon and brought about this division will realise India's essential oneness and we shall be united once again. We must realise however that this can be brought about not by force but by large heartedness and co-operation and by so managing our affairs on this side as to attract those who have parted. It may appear to be a dream but it is no more fantastic a dream than that of those who wanted a division and may well be realised even sooner than we dare hope for today.

More than a day of rejoicing it is a day of dedication for all of us to build the India of our dreams. Let us turn our eyes away from the past and fix our gaze on the future. We have no quarrel with other nations and countries and let us hope no one will pick

a quarrel with us. By history and tradition we are a peaceful people and India wants, to be at peace with the world. India's Empire outside her own borders has been of a different kind from all other Empires. India's conquests have been the conquests of spirit which did not impose heavy chains of slavery, whether of iron or of gold, on others but tied other lands and other peoples to her with the more enduring ties of golden silk—of culture and civilisation, of religion and knowledge (gyan). We shall follow that same tradition and shall have no ambition save that of contributing our little mite to the building of peace and freedom in a war-distracted world by holding aloft the banner under which we have marched to victory and placing in a practical manner in the hands of the world the great weapon of Non-violence which has achieved this unique result. India has a great part to play. There is something in her life and culture which has enabled her to survive the onslaughts of time and today we witness a new birth full of promise, if only we prove ourselves true to our ideals.

Let us resolve to create conditions in this country when every individual will be free and provided with the wherewithal to develop and rise to his fullest stature, when poverty and squalor and ignorance and ill-health will have vanished, when the distinction between high and low, between rich and poor, will have disappeared, when religion will not only be professed and preached and practised freely but will have become a cementing force for binding man to man and not serve as a disturbing and disrupting force dividing and separating, when untouchability will have been forgotten like an unpleasant night dream, when exploitation of man by man will have ceased, when facilities and special arrangements will have been provided for the adimjatis of India and for all others who are backward, to enable them to catch up to others and when this land will have not only enough food to feed its teeming millions but will once again have become a land flowing with rivers of milk, when men and women will be laughing and working for all they are worth in fields and factories, when every cottage and hamlet will be humming with the sweet music of village handicrafts and maids will be busy with them and singing to their tune—when the sun and the moon will be shining on happy homes and loving faces.

To bring all this about we need all the idealism and sacrifice, all the intelligence and diligence, all the determination and the power of organisation that we can muster. We have many parties and groups with differing ideals and ideologies. They are all trying to convert the country to their own ideologies and to mould the constitution and the administration to suit their own view point. While they have the right to do so, the country and the nation have the right to demand loyalty from them. All must realise that what is needed most today is a great constructive effort—not strife, hard solid work—not argumentation, and let us hope that all will be prepared to make their contribution. We want the peasant to grow more food, we want the workers to produce more goods, we want our industrialists to use their intelligence, tact and resourcefulness for the common good. To all we must assure conditions of decent and healthy life and opportunities for self- improvement and self-realisation.

Not only have the people to dedicate themselves to this great task that lies ahead but those who have so far been playing the role of rulers and regulators of the lives of our men and women have to assume the role of servants. Our army has won undying glory in distant lands for its bravery and great fighting qualities. Our soldiers, sailors and airmen have to realise that they now form a national army on whom devolves the duty not only of defending the freedom which we have won but also to help in a constructive way in building up a new life. There is no place in the armed forces of our country which is not open to our people, and what is more they are required to take the highest places as soon as they can so that they may take full charge of our defences. Our public servants in various departments of Government have to shed their role as rulers and have to become true servants of the people that their compeers are in all free countries. The people and the Government on their side have to give them their trust and assure them conditions of service in keeping with the lives of the people in whose midst they have to live and serve.

We welcome the Indian States which have acceded to India and to their people we offer our hands of comradeship. To the princes and the rulers of the States we say that we have no designs against them. We trust they will follow the example of the King of England and become constitutional rulers. They would do well to take as their model the British monarchical system which has stood the shock of two successive world wars when so many other monarchies in Europe have toppled down.

To Indians settled abroad in British Colonies and elsewhere we send our good wishes and assurance of our abiding interest in their welfare. To our minorities we give the assurance that they will receive fair and just treatment and their rights will be respected and protected.

One of the great tasks which we have in hand is to complete the constitution under which not only will freedom and liberty be assured to each and all but which will enable us to achieve and attain and enjoy its fulfilment and its fruits. We must accomplish this task as soon as possible so that we may begin to live and work under a constitution of our own making, of which we may all be proud, and which it may become our pride and privilege to defend and to preserve to the lasting good of our people and for the service of mankind. In framing that constitution we shall naturally draw upon the experience and knowledge of other countries and nations no less than on our own traditions and surroundings and may have at times to disregard the lines drawn by recent history and lay down new boundary lines not only of Provinces but also of distribution of powers and functions. Our ideal is to have a constitution that will enable the people's will to be expressed and enforced and that will not only secure liberty to the individual but also reconcile and make that liberty subservient to the common good.

We have up to now been taking a pledge to achieve freedom and to, undergo all sufferings and sacrifices for it. Time has come when we have to take a pledge of

another kind. Let no one imagine that the time for work and sacrifice is gone and the time for enjoying the fruits thereof has come. Let us realise that the demand on our enthusiasm and capacity for unselfish work in the future will be as great as, if not greater than, what it has ever been before. We have, therefore, to dedicate ourselves once again to the great cause that beckons us. The task is great, the times are propitious. Let us pray that we may have the strength, the wisdom and the courage to fulfil it.” (emphasis added) Both the leaders, who were visionaries of the time, laid emphasis on the need for ensuring equality among all, abolition of distinction between high and low, between rich and poor and change of the role of various segments of governance and also the need for protecting the dignity of every individual.

When we achieved independence in 1947, India was a baby aiming to grow to become one of the respected members of the world community. The leaders of Independence movement undertook an onerous task of framing the Constitution for the country. They studied the Constitutions of various countries and adopted their best provisions for creating an egalitarian society with the aim of ensuring justice, - social, economic and political, various types of freedoms, equality of opportunity and of status and ensuring dignity of every individual. During the drafting of the Constitution, the Preliminary notes on Fundamental Rights issued by the Constitutional Advisor, B.N. Rau, specifically dealt with the issue of equality using examples from various Constitutions to emphasize its importance. One of the issues highlighted in the note was that if the instinct of power is concentrated in few individuals then naked greed for power will destroy the basics of democratic principles. But, what we have done in the last four decades would shock the most established political systems. The best political and executive practices have been distorted to such an extent that they do not even look like distant cousins of their original forms. The best example of this is the use of symbols of authority including the red lights on the vehicles of public representatives from the lowest to the highest and civil servants of various cadres. The red lights symbolize power and a stark differentiation between those who are allowed to use it and the ones who are not. A large number of those using vehicles with red lights have no respect for the laws of the country and they treat the ordinary citizens with contempt. The use of red lights on the vehicles of public representatives and civil servants has perhaps no parallel in the world democracies.

For deciding the questions framed by Shri Salve, it will be useful to notice Section 70 of the Motor Vehicles Act, 1939 (for short, ‘the 1939 Act’), Sections 109, 110 and 111 of the 1989 Act and Rules 108, 108-A and 119 of the 1989 Rules. The same read as under:

Section 70 of the 1939 Act:

“Power to make rules – (1) A State Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers (with

respect to all matters other than the matters referred to in clause (a) or clause (b) of sub-section (1) of Section 69-B. (2) Without prejudice to the generality of the foregoing power, rules may be made under this section governing any of the following matters, either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances namely-

(a) x x x x

(b) seating arrangements in public service vehicles and the protection of passengers against the weather;

(c) x x x x

(d) brakes and steering gear;

(e) the use of safety glass;

(f) signaling appliances, lamps and reflectors;

(g) speed governors;

(h) the emission of smoke, visible vapour, sparks, ashes, grit or oil;

(i) the reduction of noise emitted by or caused by vehicles;

(j) prohibiting or restricting the use of audible signals at certain times or in certain places;

(k) prohibiting the carrying of appliances likely to cause annoyance or danger;

(l) the periodical testing and inspection of vehicles by prescribed authorities;

(m) the particulars other than registration marks to be exhibited by vehicles and the manner in which they shall be exhibited; and

(n) the use of trailers with motor vehicles.” Sections 109, 110 and 111 of the 1988 Act:

“Section 109. General provision regarding construction and maintenance of vehicles – (1) Every motor vehicle shall be so constructed and so maintained as to be at all times under the effective control of the person driving the vehicle.

(2) Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped with a mechanical or electrical signaling device of a prescribed nature.

(3) If the Central Government is of the opinion that it is necessary or expedient so to do in public interest, it may by order published in the Official Gazette, notify that any article or process used by a manufacturer shall conform to such standard as may be specified in that order.

Section 110. Power of Central Government to make rules. – (1) The Central Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all or any of the following matters, namely :-

- (a) the width, height, length and overhand of vehicles and of the loads carried;
- (b) the size, nature, maximum retail price and condition of tyres, including embossing thereon of date and year of manufacture, and the maximum load carrying capacity;
- (c) brakes and steering gear;
- (d) the use of safety glasses including prohibition of the use of tinted safety glasses;
- (e) signalling appliances, lamps and reflectors;
- (f) speed governors;
- (g) the emission of smoke, visible vapour, sparks, ashes, grit or oil;
- (h) the reduction of noise emitted by or caused by vehicles;
- (i) the embossment of chassis number and engine number and the date of manufacture;
- (j) safety belts, handle bars or motor cycles, auto-dippers and other equipment's essential for safety of drivers, passengers and other road user.
- (k) standards of the components used in the vehicle as inbuilt safety devices;
- (l) provision for transportation of goods of dangerous or hazardous nature to human life;
- (m) standards for emission of air pollutants;

- (n) installation of catalytic convertors in the class of vehicles to be prescribed;
- (o) the placement of audio-visual or radio or tape recorder type of devices in public vehicles;
- (p) warranty after sale of vehicle and norms therefore:

Provided that any rules relating to the matters dealing with the protection of environment, so far as may be, shall be made after consultation with the Ministry of the Government of India dealing with environment.

(2) Rules may be made under sub-section (1) governing the matters mentioned therein, including the manner of ensuring the compliance with such matters and the maintenance of motor vehicles in respect of such matters, either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances.

(3) Notwithstanding anything contained in this section, -

(a) the Central Government may exempt any class of motor vehicles from the provisions of this Chapter;

(b) a State Government may exempt any motor vehicle or any class or description of motor vehicles from the rules made under sub-section (1) subject to such conditions as may be prescribed by the Central Government.

Section 111. Power of State Government to make rules – (1) A State Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all matters other than the matters specified in sub-section (1) of section 110.

(2) Without prejudice to the generality of the foregoing power, rules may be made under this section governing all or any of the following matters either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or description or in particular circumstances, namely:-

- a) seating arrangements in public service vehicles and the protection of passengers against the weather;
- b) prohibiting or restricting the use of audible signals at certain times or in certain places;
- c) prohibiting the carrying of appliances likely to cause annoyance or danger;

d) the periodical testing and inspection of vehicles by prescribed authorities (and fees to be charged for such test);

e) the particulars other than registration marks to be exhibited by vehicles and the manner in which they shall be exhibited;

f) the use of trailers with motor vehicles; and

(g) x x x x” Rules 108, 108-A and 119 of the 1989 Rules:

“108. Use of red, white or blue light.—(1) No motor vehicle shall show a red light to the front or light other than red to rear:

Provided that the provisions of this rule shall not apply to—

(i) the internal lighting of the vehicle; or

(ii) the amber light, if displayed by any direction indicator or top light or as top light used on vehicle for operating within the premises like airports, ports without going outside the said premises on to public roads;

(iii) a vehicle carrying high dignitaries as specified by the Central Government or the State Government, as the case may be, from time to time;

(iv) the blinker type of red light with purple glass fitted to an ambulance van used for carrying patients; or

(v) to a vehicle having a lamp fitted with an electrical bulb, if the power of the bulb does not exceed seven watts and the lamp is fitted with frosted glass or any other material which has the effect of diffusing the light;

(vi) white light illuminating the rear number plate;

(vii) white light used while reversing;

(viii) plough light provided in agricultural tractors for illuminating the implement's working area on the ground in agricultural field operations.

(2) Use of blue light with flasher shall be determined and notified by the State Governments at their discretion;

(3) Use of blue light with or without flasher shall be permitted as top light on vehicles escorting high dignitaries entitled to the use of red light;

(4) Use of multi-coloured red, blue and white light shall be permitted only on vehicles specifically designated for emergency duties and shall be specifically specified by State Governments;

(5) The State Government shall inform the Central Government regarding publication of notifications issued by the concerned State Government under sub-rule (2) and under clause (e) of the Notification No. S.O. 52(E), dated 11th January, 2002, published in the Gazette of India, Ministry of Road Transport and Highways, regarding use of red light on top of vehicle being used by dignitaries;

(6) In case vehicle is not carrying dignitaries, red or blue light, as the case may be, light shall not be used and be covered by black cover.

108-A. Use of red or white light on construction equipment vehicles.—No construction equipment vehicle shall show a red light to the front or light other than red to the rear:

Provided that the provision of this rule shall not apply to:—

- (i) the internal lighting of the vehicle;
- (ii) the amber light, if displayed by any direction indicator or top light;
- (iii) white light illuminating the rear or side registration number plate;
- (iv) white light used while reversing;
- (v) light provided for illuminating the implement's working area on the ground in off-highway or construction operations.

119. Horns.—(1) On and after expiry of one year from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1999, every motor vehicle, agricultural tractor, power tiller and construction equipment vehicle manufactured shall be fitted with an electric horn or other devices conforming to the requirements of IS:

1884—1992, specified by the Bureau of Indian Standards for use by the driver of the vehicle and capable of giving audible and sufficient warning of the approach or position of the vehicle:

Provided that on and from 1st January, 2003, the horn installation requirements for motor vehicle shall be as per AIS-014 specifications, as may be amended from time to time, till such time as corresponding Bureau of Indian Standards specifications are notified.

(2) No motor vehicle including agricultural tractor shall be fitted with any multi-toned horn giving a succession of different notes or with any other sound-producing device giving an unduly harsh, shrill, loud or alarming noise.

(3) Nothing contained in sub-rule (2) shall prevent the use on vehicles used as ambulance or for fire fighting or salvage purposes or on vehicles used by police officers or operators of construction equipment vehicles or officers of the Motor Vehicles Department in the course of their duties or on construction equipment vehicles of such sound signals as may be approved by the registering authority in whose jurisdiction such vehicles are kept.” In exercise of the power vested in it under proviso (iii) to Rule 108(1) of the 1989 Rules, the Central Government issued Notification SO 52(E) dated 11.01.2002 which was amended by Notification SO 1070(E) dated 28.7.2005. The same reads as under:

“(a) red light with flasher on the top front of the vehicle, while on duty anywhere in the country-

- 1) President,
- 2) Vice-President
- 3) Prime Minister
- 4) Former Presidents
- 5) Deputy Prime Minister
- 6) Chief Justice of India
- 7) Speaker of Lok Sabha
- 8) Cabinet Ministers of the Union
- 9) Deputy Chairman, Planning Commission
- 10) Former Prime Ministers
- 11) Leaders of Opposition in the Rajya Sabha and Lok Sabha
- 12) Judges of the Supreme Court.

(b) red light without flasher on the top front of the vehicle, while on duty anywhere in the country-

- 1) Chief Election Commissioner
- 2) Comptroller and Auditor General of India
- 3) Deputy Chairman, Rajya Sabha
- 4) Deputy Speaker, Lok Sabha
- 5) Ministers of the State of the Union
- 6) Members of the Planning Commission
- 7) Attorney General of India
- 8) Cabinet Secretary
- 9) Chiefs of Staff of the three services holding the rank of full General or equivalent rank
- 10) Deputy Ministers of the Union
- 11) Officiating Chiefs of Staff of the three services holding the rank of Lt. General or equivalent rank
- 12) Chairman, Central Administrative Tribunal
- 13) Chairman, Minorities Commission
- 14) Chairman, Scheduled Castes and Scheduled Tribes Commission
- 15) Chairman, Union Public Service Commission

(c) Any vehicle carrying the dignitary formally designated as equivalent in rank, status and privileges to those dignitaries referred to in Items (a) and (b) above shall be entitled to use the red light as per the corresponding privileges. The vehicles carrying the dignitaries assigned rank in their personal capacities by the Ministry of Home Affairs shall be entitled to use red light as per the corresponding privileges assigned to those dignitaries referred to in items (a) and (b) above.

(d) In case the vehicle fitted with red light on top front is not carrying the dignitaries, then such red light shall not be used and be covered by a black cover.

(e) The State Governments and Union Territory Administrations shall issue similar notifications on the use of red light in respect of high dignitaries of their State

Governments or Union Territory Administrations, such as Governor, Lt. Governor, Chief Minister, Chief Justices and Judges of High Courts, Chairman, Speaker and Cabinet Ministers of State/Union Territory Legislatures, etc., as the case may be.” (emphasis added) We shall first deal with the issue of use of multi-toned horns in violation of Rule 119 of the 1989 Rules and the corresponding Rules framed by the State Governments and the Administration of the Union Territories.

Since the learned Solicitor General and the Additional Solicitor General are in agreement with the learned Amicus that the prohibition contained in Rule 119(2) on the use of multi-toned horns giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise is absolute with certain exceptions specified in sub-rule (3), the only thing required to be done by the Central and the State Governments is to implement the prohibition in its letter and spirit. Their failure to do so for last almost 24 years is inexplicable. The contemptuous disregard to the prohibition by people in power, holders of public offices, civil servants and even ordinary citizens is again reflective of ‘Raj Mentality’ and is antithesis of the concept of a Republic. We feel that the only possible remedy to curb the menace of use of multi-toned horns is to impose exemplary fine on the violators and ensure its rigorous enforcement by the concerned authorities and agencies.

On the issue of use of vehicles with red lights, we were inclined to agree with Shri Harish Salve, learned Amicus that use of signs and symbols of authority such as red lights, etc., is contrary to the constitutional ethos and the basic feature of republicanism, but, on a deeper consideration, we have felt persuaded to accept the submissions of the learned Solicitor General and the Additional Solicitor General that the term “high dignitaries” used in proviso (iii) to Rule 108(1) of the 1989 Rules would take within its fold various constitutional functionaries, i.e., holders of the constitutional offices. When the framers of the Constitution have considered it appropriate to treat those occupying constitutional positions as a special category, there is no reason for the Court to exclude them from the ambit of the term “high dignitaries”. The use of red lights on the vehicles carrying the holders of constitutional posts will in no manner compromise with the dignity of other citizens and individuals or embolden them to think that they are superior to other people, more so, because this distinction would be available to them only while on duty and would be co-terminus with their tenure. However, the Governments of most of the States and Administration of Union Territories have framed rules and issued notifications allowing use of red lights on the vehicles carrying large number of persons other than “high dignitaries”. They have also used the power of issuing notifications to enlarge the list of the persons entitled to use red lights with or without flashers whether on duty or otherwise. Most of these notifications are far beyond the scope of clause ‘c’ of Notifications dated 11.1.2002 and 28.7.2005 issued by the Central Government. It also deserves to be mentioned that there has been abysmal failure on the part of the concerned authorities and agencies of various State Governments and the Administration of the Union Territories to check misuse of the vehicles with red lights on their top. So much so that a large number of persons are using red lights on their vehicles for committing crimes in different parts of the country and they do so with impunity because the police officials are mostly scared of checking vehicles with red lights, what to say of imposing fine or penalty.

In the result, we hold as under:

1. The term “high dignitaries” used in proviso (iii) to Rule 108(1) of the 1989 Rules takes within its fold the holders of various posts, positions and offices specified in the Constitution.
2. The motor vehicles carrying “high dignitaries” specified by the Central Government and their counterparts specified by the State Government may be fitted with red lights but the red lights with or without flasher can be used only while the specified high dignitary is on duty and not otherwise.
3. The State Governments and Administration of Union Territories cannot enlarge the scope of the term “high dignitaries” beyond what is prescribed in clauses ‘c’ and ‘d’ of Notifications dated 11.1.2002 and 28.7.2005 issued by the Central Government. Therefore, they shall amend the relevant rules and notifications to bring them in tune with the 1989 Rules and notifications dated 11.1.2002 and 28.7.2002 issued by the Central Government. This exercise must be completed within a period of three months.
4. The men in uniform; operational agencies which require un-hindered access to the roads for performance of their duty; those engaged in emergency duties such as ambulance services, fire services, emergency maintenance etc, and police vehicles used as escorts or pilots or for law and order duties shall not be entitled to have red lights but lights of other colours, e.g., blue, white, multicoloured etc.
5. No motor vehicles except those specified in Rule 119(3) of the 1989 Rules or similar provisions contained in the rules framed by the State Governments or the Administration of Union Territories shall be fitted with multi-toned horns giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise.
6. The police officers and other authorities entrusted with the task of enforcing the provisions of the 1988 Act and the Rules framed thereunder must discharge their duties without any fear or favour and should impose appropriate penalty on those who violate the prohibition contained in Rule 108(1) and Rule 119 and similar rules framed by the State Governments and the Administration of Union Territories. The owners/users of the vehicles fitted with multi-toned horns other than those allowed to use such horns under Rule 119(3) of the 1989 Rules or corresponding rules framed by the State Governments and the Administration of the Union Territories shall, within a period of one month from today, remove the multi-toned horns. The officers authorised to enforce the provisions of the 1988 Act and the rules framed thereunder by the Central Government, the State Governments and the Administration of Union Territories shall also ensure that multi-

toned horns are removed from all the vehicles except those specified in rule 119(3) of the 1989 Rules or corresponding rules framed by the State Governments and the Administration of Union Territories.

7. The Chief Secretaries of all the States and the Administrators of Union Territories shall cause a notice published in the newspapers having wide circulation in their respective States and the Union Territories incorporating the directions contained in this order.

In the note submitted by the learned Solicitor General, it has been mentioned that Clause 51 of the Motor Vehicles (Amendment) Bill, 2012 contains a provision for imposition of enhanced penalty. That amendment is not shown to have been carried out so far. We hope and trust that the Legislature will make appropriate amendment and make provision for imposition of adequate penalty which may operate as deterrent against misuse of the provisions of the 1989 Act and the 1989 Rules generally and the provisions of Rules 108 and 119 in particular. The State Governments and the Administration of the Union Territories shall either amend the existing rules or frame appropriate rules for imposing deterrent penalty on the violators of the rules containing prohibition against the use of red lights and multi-toned horns or similar devices.

.....J.
[G.S. SINGHVI]

NEW DELHI;
DECEMBER 10, 2013.

.....J.
[C. NAGAPPAN]