

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ

Mr. Justice Ijaz Ahmed Chaudhry

Mr. Justice Gulzar Ahmed

HUMAN RIGHTS CASE No.20107-G/2013

(Action on News clipping in the daily "Dawn" dated 26.05.2013
regarding incident of burning of school van in Gujrat)

On Court's Notice

:

For the Federation

: Mr. Dil Muhammad Khan Alizai, DAG

For M/o Petroleum

: Mr. Irshad Ali Khokhar, DG
Mr. Mansoor Ahmad Raja, Chief Engineer (HDIP)

For Department of
Explosives

: Mr. Muhammad Hussain Channa,
Chief Inspector of Explosive

For OGRA

: Mr. Afnan Karim Kundi, ASC
Mr. Saeed Ahmed Khan, Chairman
Mr. Farrukh Nadeem, ED (Enforcement)
Mr. Rizwan ul Haq, ED (Law)

For Govt. of Punjab

: Mr. Jawwad Hassan, Addl.A.G.
Mr. Salahuddin Khan, Secretary RTA
Mr. Asif Bilal Lodhi, DCO Gujrat

For the State

: Mr. Asjad Javaid Ghurrall, Addl. P.G.
Mr. Dar Ali Khattak, DPO, Gujrat
Mr. Ijaz, SHO, PS Kunjah

For Motor Vehicle
Examiner

: Mr. Aftab Ahmed Bajwar, ASC

Dates of Hearing

: 13-06-2013

ORDER

Iftikhar Muhammad Chaudhry, CJ. :- This case was initiated by the Court under Article 184(3) of the Constitution, 1973 on the basis of a news item that appeared in the daily "Dawn" on 26.05.2013 titled "All are responsible: Van fire tragedy". The item referred to the

death of sixteen schoolchildren and one teacher in Gujrat on 25.05.2013 when the vehicle they were travelling in exploded. The news item, reproduced hereinbelow, clearly depicts the apathy and desensitisation to bloodshed that has become the norm in our society.

“REACTING to the tragic van fire near Gujrat town on Saturday, a local official said lives could have been saved if the driver of the vehicle had shown some courage. That statement provides the starting point of a probe to identify all those responsible for the heartbreaking, horrible tragedy. The killing of at least 15 young school-bound children and a teacher in the fire was no accident. This was nothing short of murder or at least manslaughter.

The guilty include money-minded transporters who justify the low safety standards they maintain by boastfully stressing on the affordability factor. Never is their greed more obscenely manifested than in the hot summer months. The routine sight of children crammed in rundown vehicles in the suffocating heat is the worst advertisement for our education system. It is a horrifying throwback to those dark times that we would like to pretend we have left far behind. Sadly, the same era of ignorance and negligence continues, frequently throwing up tragedies of this sort. Those responsible also include school administrations and the officials who run the affairs of government. Finally, cruel though it may sound considering the grief of those whose children have perished, parents too must bear part of the blame for not demanding a better deal for their offspring, for being the meek of the earth who accept their fate unquestioningly.

In a saner country, the Gujrat fire would be the only news worth pondering over for days and weeks if not months. In Pakistan, it is likely to be quickly overtaken by other, ‘more pressing’ events, as has happened in the aftermath of similar incidents in the past. Such incidents have included the killing of children in gas cylinder blasts, deaths of school-bound students at a railway crossing at

one place and a bus overturning during a school excursion at another. After a period of initial mourning, these tragedies are forgotten in the interest of the continuation of the system. A similar pattern appears to be emerging now and the design could succeed once again unless a genuine effort is made to devise and enforce safety measures in transport used by our schoolchildren — and urgently. The blaming of one individual — the driver of the van — and the convenient, standard identification of short-circuiting as the cause of the fire are dire signs of the guilty seeking to take the old escape route. They are no less than murderers. If they are allowed to flee now, they will return to kill again.”

2. The Court took notice of the case on 29.05.2013. On the same date, the Court passed an Order which called upon the Secretary of the Ministry of Petroleum, the Chief Secretary of the Government of Punjab, the Secretary of the Transport Department of Punjab, the Inspector-General (IG) of the Punjab Police and the administration of the Jinnah School, Mangowal (the school concerned) to submit reports. In further hearings, the Chairman of the Oil and Gas Regulatory Authority (OGRA) was directed to explain whether any mechanism is followed to ensure the safety of CNG cylinders used in vehicles. The Secretary Transport, Punjab was directed to submit reports on whether any action was taken against the concerned Motor Vehicle Examiner (MVE) and the officials who were responsible for issuing certificates to the school van and whether action was taken to ensure the protection of the lives of people who travel in such vehicles.

3. The Secretary, Ministry of Petroleum submitted an Inspection Report that was particularly helpful in elucidating the facts of the incident. The Inspection Report stated, *inter alia*, the following:

- i. According to the children, the vehicle went out of order frequently in the days prior to the incident.
- ii. The driver, Muhammad Irfan, was smoking at the time of the incident.
- iii. The petrol tank of the vehicle was not working. The petrol was inside the passenger compartment in a can from where it supplied fuel to the engine through a plastic pipe. Another can filled with petrol was also inside the vehicle. Both these cans were placed adjacent to the engine behind the front seat of the van.
- iv. One minute before the incident, at least four children complained to the driver that they smelled the odour of petrol in the vehicle. The driver did not pay any heed to the complaints.
- v. The fire started from the front of the vehicle where the petrol cans were situated and proceed to engulf the entire vehicle.
- vi. The incident was exacerbated by the fact that the sliding doors of the vehicle could not be opened from the inside; and the back door of the vehicle was out of order. It was through the gallantry and heroism of the teacher that five children survived the incident. The teacher sacrificed her own life; pushing children out the window of the van whereas she perished in flames.
- vii. The driver ran from the site of the incident without even trying to open the door of the van.
- viii. None of the CNG cylinders exploded in the incident.
- ix. Drivers in the district of Gujrat have been observed to use unauthorised plastic cans for storage of petrol to save money that would be spent on replacing petrol tanks.
- x. The main cause of the incident was the spillage of petrol on the floor of the vehicle, which most probably ignited a fire due to contact with the hot engine surfaces. Short circuiting of wiring and the

fact that the driver was smoking while sitting near petrol cans cannot be ruled out as causes.

- xi. The fitness certificate of the vehicle was expired.
- xii. OGRA is mandated to conduct a full-fledged inquiry into the incident and fix responsibility to prevent such incidents from occurring.

4. The administration of the Jinnah School, Magowal averred in its report dated 01.06.2013 that it owns two vehicles for the purposes of transportation of schoolchildren and employees; one of which was involved in the tragic incident. Apparently, the CNG cylinders that the said vehicle was outfitted with were purchased and installed from a private distributor and were not affirmed by any competent authority. The vehicle ran on a dual-fuel basis, i.e. it could run on either petrol or CNG. It was stated that the incident occurred when the driver switched the fuel setting from CNG to petrol. On the direction of the Chief Secretary, Punjab, the Punjab Forensic Science Agency (the "Agency") submitted a report which stated, *inter alia*, that the probable cause of the fire was the spark produced at the CNG kit during conversion of CNG to petrol. The Report of the Chief Secretary, Punjab dated 03.06.2013 countenanced this difference of opinion as to whether the incident occurred when the driver switched the fuel setting of the vehicle from CNG to petrol or due to spillage of petrol. It is helpful to reproduce the following portion of the Chief Secretary's Report:

"However, the difference of opinion has no material bearing for the following reasons:

- a) Both the reports indicate that the van was not roadworthy and was also subjected to unauthorized modifications as mentioned above. Of the five available doors, three had problems; the right sliding

door was permanently closed, the other sliding door could not be opened from the inside while the back door was out of order. Thus the chances of escaping the fire were almost obliterated.

- b) The van's fitness certificate had expired on 24.04.2013, i.e. a month prior to the accident and was not renewed.
- c) The said van had no valid route-permit."

5. The report of the IG, Punjab stated that FIRs were registered against the driver, Muhammad Irfan s/o Muhammad Younas as well as the owners of the vehicle and Jinnah School, Mangowal, namely Shafqat Hussain s/o Muhammad Hussain, Rizwan s/o Ali Ahmad and Muhammd Ehsan s/o Nazir Ahmad. It was further stated that action was taken against decanting of Liquified Petroleum Gas (LPG), illegal sale of petrol and unfit vehicles. The Traffic Police also carried out a special campaign whereby a number of challans were issued from 26.05.2013 – 30.05.2013 to counter those driving without route permits, fitness certificates, and driving licenses. It is pertinent to mention a letter dated 10.12.2011 from the Additional IG of the Punjab Traffic Police to the Secretary Transport, Punjab which is annexed to the Report of the IG Punjab. The said letter clearly states that fitting of fuel tanks in the passenger area of a vehicle is a clear violation of Rule 199 of the Motor Vehicle Rules, 1969. The said letter also expressly gives the direction to remove illegally-fitted LPG and CNG cylinders from vehicles and to cancel the fitness certificates of such vehicles.

6. A report was also submitted by a committee headed by the Commissioner, Gujranwala, which fixed responsibility for the incident as under:

- i. Mohsin Riaz, the Secretary, District Regional Transport Authority (DRTA), failed to carry out inspections to ensure that vehicles without route permits and fitness certificates do not run.
- ii. Farrukh Sohail, the MVE, failed to check the fitness of vehicles that came within his purview.
- iii. The District Traffic Police failed to implement the provisions of the Motor Vehicles Ordinance, 1965 (MVO).
- iv. The District Excise and Taxation Department failed to record the change in ownership of the vehicle and the fact that the engine of the vehicle had been changed from diesel to petrol to CNG in violation of the MVO.
- v. The District Education Department registered The Jinnah School, Mangowal without proper inspections by the said department, which is a violation of the Punjab Private Educational Institutions (Promotion and Regulation) Ordinance, 1984.
- vi. The management of The Jinnah School, Mangowal failed to conduct any investigations as to the fitness and safety of the vehicle.
- vii. The driver did not validly procure a driving licence.
- viii. The parents of the children were unaware of the state of the vehicle; some had never even seen the vehicle.

Pursuant to the aforementioned report, Mohsin Riaz, the Secretary, DRTA and Farrukh Sohail, the MVE were suspended from duty by the Secretary Transport, Punjab. Directions were also issued to the District Education and Excise and Taxation Departments to initiate inquiries in light of the findings of the Commissioner, Gujranwala's report.

7. Mr. Afnan Karim Kundi, learned ASC, appeared on behalf of Chairman, OGRA. His primary contention was that the regulation

and monitoring of proper and safe installation of CNG kits and the certification of vehicles for that purpose are in fact the domain of the Chief Inspector of Explosives (CIE), not OGRA. The learned ASC substantiated this contention by referring to the following provisions of the OGRA Ordinance, 2002 in his Concise Statement:

- Section 2(1)(iii) defines CNG as “natural gas compressed for vehicular or other mobile use.”
- Section 2(1)(xxxii) defines “regulated activity” as “an activity requiring licence.” CNG consumption by automobiles/vehicles is not a “regulated activity” and is therefore not licensed by OGRA.
- Section 2(1)(xxxiv) defines “retail consumer for natural gas” as “a person who purchases or receives natural gas for consumption and not for delivery or resale other than resale for vehicular use or self consumption by a licensee in connection with its regulated activity”.
- Section 2(1)(xxxvii) defines “sale” as “a sale of natural gas to retail consumers of natural gas but does not include sale of CNG for vehicular use or self-consumption by a licensee in connection with its regulated activity”. Importantly, sale of CNG for vehicular is clearly ousted from sale of natural gas.
- Section 6(1) states that “the Authority shall be exclusively responsible for granting licenses for the carrying out of regulated activities and regulating such activities”. Regulation by OGRA is thus limited to “regulated activities”.
- Section 23(2)(b) and (d) refer only to construction and operation of CNG testing facility, construction and operation of CNG operation of CNG storage facility and transportation, marketing or distribution of CNG as “regulated activities” with respect to CNG.
- Sections 41 and 42 empower OGRA to make rules and regulations for carrying out the purposes of the

OGRA Ordinance but they do not add to the list of "regulated activities".

- OGRA only gives licenses for CNG filling stations; it is the responsibility of authorities like the CIE and the Hydrocarbon Development Institute of Pakistan (HDIP) to ensure that filling stations only fill those vehicles whose cylinders are properly fitted and are validly certified.

8. In asserting the responsibility of the CIE, Mr. Afnan Karim Kundi, learned ASC placed particular emphasis on Rule 18(1) of the CNG (Production and Marketing) Rules, 1992 (CNG Rules), which is reproduced as under (with emphasis added by the learned ASC):

"18. Protection to the public.-(1) No licensee shall locate or construct any new works and CNG refuelling station in any residential area. A licensee shall locate, construct and operate his pipeline and all works connected with CNG Refuelling Station, and installation of CNG equipment in automobiles in accordance with the license granted by the Chief Inspector of Explosives under the Mineral Gas Safety Rules, 1960, and strictly comply with the provisions of the Petroleum Rules 1937 and the Gas Cylinder Rules, 1940, so as to avoid any danger to the public health or safety."

9. Mr. Afnan Karim Kundi, learned ASC, averred that the Federal Government has now vested the CIE with elaborate licensing, monitoring and enforcement powers in respect of *inter alia* installation of CNG cylinders, valve and fittings under the Mineral Industrial Gases Safety (MIGS) Rules, 2010, which repealed the 1960 Rules, as detailed hereunder:

- Examination, testing and condemning of cylinders [Rules 28 and 29].
- Recognition of testing stations for periodical testing and examination of cylinders [Rule 28(2) read with Schedule III].
- Licensing import of gas cylinders including CNG cylinders [Rule 80].
- Prohibition on filling or possession of cylinders and valves unless of type and standard approved by CIE [Rules 129 and 130].
- Approval of type of safety relief devices fitted in cylinders [Rule 131].
- Restriction on delivery or dispatch of cylinders except to licensees of CIE unless exempted [Rule 136].
- Overseeing maintenance of cylinders, valves and other fittings in good condition [Rule 141(1)].
- Prevention of leakage from cylinder/valve [Rule 141(4)].
- Prohibition and special precautions against acts causing fire or explosion relating to cylinders [Rule 142].
- Ensuring a competent and experienced person to oversee all operations (filling etc.) of cylinders [Rule 143].
- Periodical retesting of cylinders [Rule 152].
- Ensuring maintenance of record by owners of cylinders [Rule 153].
- Prohibition on filling any cylinder with CNG unless same along with valve and other fittings are of type and standard approved by CIE, have passed applicable testing and are otherwise compliant with Rule 130 through Rule 134 [Rule 157].
- Power to grant or to refuse to grant, renew, amend or transfer licenses [Rules 163 and 170].
- Power to suspend or cancel license for violation of anything objectionable, including without hearing the licensee in the public interest or in the case of imminent danger to the public [Rule 171].

10. Mr. Afnan Karim Kundi, learned ASC, also contended that MVEs are mandated by the Motor Vehicles Rules, 1969 (MVR) to physically examine Public Service Vehicles (PSV), including their fuel tanks, such as the one in question. The learned ASC relied on the definition of "gas cylinder" in Rule 2(xl) of the MIGS Rules, 2010 in asserting that a "gas cylinder" includes a "(CNG) cylinder fitted to a motor vehicle as **its fuel tank**". (emphasis added by the learned ASC).

11. The CIE submitted a reply controverting the above contentions raised on behalf of Chairman, OGRA. The CIE averred that OGRA was attempting to shift its responsibilities on the shoulders of the Department of Explosives. In this regard, he referred to a letter dated 02.03.2011 from OGRA to the Secretary, Cabinet Division. In the said letter, OGRA protested the promulgation of the MIGS Rules, 2010 and the Explosives Rules, 2010. In the letter, OGRA stated that the said Rules were in conflict with the provisions of the OGRA Ordinance. In particular, the letter stated,

"8. ...OGRA Ordinance is a special law and therefore its provisions must prevail upon the provisions of all other general laws including but not limited to the Explosives Act, 1884, Petroleum Act, 1934 and the rules made there under.

10. In view of the above it is evident that the newly promulgated rules under the Explosives Act, 1884 and Petroleum Act, 1934 are inconsistent with the provisions of OGRA Ordinance and rules regulations (*sic*) made there under. Hence, these rules have no legal effect, having being (*sic*) made under statutes which ceased to have any effect on the commencement of OGRA Ordinance."

Furthermore, in its letter dated 09.08.2011, OGRA mentioned that the Explosives Act, 1884 and Petroleum Act, 1934 do not mention any powers of the CIE with respect to Gas Cylinders; and that in any event the OGRA Ordinance repealed these laws. Therefore, the basic contention of the CIE was that previously, OGRA was arguing that the MIGS Rules have no legal effect whereas in the instant case they argued that the MIGS Rules mandate the responsibility of the CIE with regards to CNG cylinders.

12. From the aforementioned facts and contentions, one point is clear above all others. This is a case of criminal negligence on the part of the responsible authorities. Because of this patently obvious criminal negligence, the liability of those responsible must not only be founded in terms of laws such as the OGRA Ordinance, MVO, MVR, MIGS Rules and CNG Rules etc. The responsible parties must also be dealt with under the provisions of the Pakistan Penal Code, 1860 (PPC) relating to culpable homicide and grievous bodily harm depending on the facts and circumstances of the case.

13. The question remains; who are the responsible parties? The report of the Commissioner, Gujrat is particularly thorough and has proved instructive in fixing responsibility for the incident. The liability of Farrukh Sohail, MVE, and Mohsin Riaz, Secretary DRTA is apparent in the terms of the MVR, which provide at Rule 35:

"35. Issue and renewal of certificate of fitness.-

(1)(a) The authority prescribed to issue or renew a certificate of fitness... shall be:-

(ii) ...the Motor Vehicles Examiner appointed by the Inspector-General, Police...

...Provided that the Regional Transport Authority may authorise any licensed Automobile Workshop to perform the functions of the Motor Vehicles Examiner."

It is the responsibility of the MVE to inspect and ensure that PSVs in particular are roadworthy; and as is apparent from Rule 35, the Secretary, DRTA oversees the functions of the MVE because he can appoint automobile workshops to perform the functions of the MVE. Moreover, the Secretary, DRTA is admittedly responsible for issuing route permits.

14. The omissions by these two officials are numerous. Firstly, the petrol cans inside the vehicle constitute a violation of Rule 199(3) of the MVR, which reads, "The fuel tank of every public service vehicle shall be so placed that no over-flow therefrom shall fall upon any woodwork or accumulate where it can readily be ignited. The filling points of all fuel tanks shall be outside the body of the vehicle..." Not only did Farrukh Sohail, MVE fail to take action, these dangerous violations of the MVR were not even in his notice. In this regard it is pertinent to recall the letter dated 10.12.2011 noted above which referenced Rule 199 and the obligation to remove illegally fitted CNG cylinders. Such directions were issued numerous times by a number of authorities but their implementation was never ensured. Secondly, and even more glaringly, the vehicle involved in the incident had an expired fitness certificate and was utilising unauthorised and unapproved CNG cylinders. This is apparent from the Commissioner, Gujrat's report, which states, "As per office record the fitness certificate of this vehicle had already been expired on 30.04.2013 and the vehicle was presented for obtaining fitness certificate on 01.05.2013. The stickers regarding cylinder and CNG kit was not

produced therefore the case was refused.” Thirdly, Mohsin Riaz, Secretary DRTA, admittedly neglected to even once visit Sarghoda road (where the incident occurred) during the month of May, 2013. Fourthly, the vehicle was on the roads despite the fact that it had not been issued a route permit by the DRTA. Therefore, Farrukh Soahil, MVE, and Mohsin Riaz, Secretary DRTA abjectly failed to perform their duties by allowing dangerous vehicles to ply the roads. The lives of sixteen innocent children and a brave teacher would have been saved had they performed their duties to even the bare minimum as mandated by law. Their gross omissions are criminal in nature and should be dealt with under the PPC.

15. The opposing contentions of OGRA and the CIE shall now be addressed. We are of the opinion that both OGRA and the CIE are responsible in the present case. Under section 23(2)(b) and (d) of the OGRA Ordinance, it is the responsibility of OGRA to grant licenses to those who “construct or operate... CNG testing facility or... CNG storage facility”, as well as those who “undertake transporting, filling, marketing or distributing of LPG, LNG or CNG”. Therefore, it is the responsibility of OGRA to ensure that CNG is safely stored in cylinders which have been manufactured in Pakistan. With respect to cylinders which are imported, Rule 80 of the MIGS Rules provides:

“80. Licence for import of gas cylinders.- No person shall import any cylinder filled or intended to be filled with any compressed gas except under and in accordance with the condition of the licence granted under these rules.”

Therefore, both OGRA and the CIE bear responsibility for being criminally negligent regarding the use of unauthorised CNG cylinders. OGRA has admittedly taken responsibility to tackle the proliferation of

unauthorised CNG cylinders. This is evident from the letter dated 19.11.2012 from OGRA to the Chief Secretaries of all four provinces wherein OGRA has expressly stated, "...OGRA is initiating action against the CNG stations found involved in refuelling uncertified commercial CNG vehicles." OGRA has sent many such letters and notifications but has been lax on the implementing the same. The CIE also has responsibility to test and condemn cylinders, to ensure that owners of cylinders keep record of the maintenance of cylinders, to periodically retest cylinders and to cancel or suspend licenses where there is imminent public danger under the MIGS Rules. It is pertinent to highlight the obligation to oversee the filling of cylinders by a competent person appointed by the CIE under Rule 143 of the MIGS Rules. If only this is ensured, many lives can be saved. We are of the considered opinion that the presence of such a competent person will result in the prevention of tragic incidents such as the one in the present case.

16. Moreover, the fact that the driver of the vehicle, Muhammad Irfan, kept cans of petrol in the vehicle highlights the illegal availability of open petrol, which is a violation of Rule 21 of the Petroleum Rules, 1985, which must be checked by OGRA. OGRA has also issued a number of notifications and letters in this regard but has failed to ensure their implementation. Thus, it is abundantly clear that OGRA and the CIE have also completely failed to fulfil their obligations under the relevant laws and are thereby liable for criminal action under the PPC for the deaths of sixteen children and the teacher.

17. The report of the Commissioner, Gujrat also highlights the responsibility of the Excise and Taxation Department in failing to register the change in ownership and fuel setting of the vehicle as well as the Punjab Education Department in registering the Jinnah School, Mangowal without conducting the proper inspections. It is also not out of place to mention that the vehicle had third-party insurance, whereas PSVs should not be covered by such insurance under the MVR. The conclusion that is apparent from these multiple failures on the part of multiple public authorities is highly disturbing due to magnitude of the loss in the case at hand. It is difficult to find words to completely describe the utter paralysis of the bureaucracy that has been showcased in the present case. If just the MVE had ensured that a vehicle with petrol cans inside it could not be used as a PSV, the children would be alive today. If just the Secretary, DRTA had ensured that a vehicle without a route permit was not plying the road, the children would be alive today. If just OGRA had ensured that only licensed CNG cylinders were available to the masses, the children would be alive today. If just the CIE had inspected the CNG cylinders as provided in the MIGS Rules, the children would be alive today. In short, if just one of the authorities had performed its functions in accordance with law, we would not have had to hear of this tragedy. These egregious omissions therefore deserve to be countenanced in terms of culpable homicide and grievous bodily harm under the PPC.

18. It is unfortunate that ours is a country replete with regulation with little emphasis on implementation. The various rules and regulations mentioned hereinabove are voluminous; teeming with provisions that seem to cover a multitude of eventualities and situations. However, as evidenced by the unfortunate incident in the

instant case, there is absolute apathy when it comes to implementation of these provisions. Motor vehicles, fossil fuels and potential explosives are subject to all of the regulation that has been detailed hereinabove for one basic reason above all: the protection and preservation of the life of the citizens of this country. It is trite law that Article 9 of the Constitution, 1973 guarantees the protection of the life of citizens. It is the duty of the State to ensure such protection by following relevant laws which are made to protect and preserve life. In this behalf, reference may be made to Suo Motu Action regarding law and order situation in Karachi (PLD 2011 Supreme Court 997) wherein we relied on the celebrated judgement in Shehla Zia v. WAPDA (PLD 1994 Supreme Court 693) in dilating upon the concept of the right to life. In *Shehla Zia's* case, we held as under: -

"Article 9 of the Constitution provides that no person shall be deprived of life or liberty save in accordance with law. The word "life" is very significant as it covers all facts of human existence. The word "life" has not been defined in the Constitution but it does not mean nor can it be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. For the purposes of present controversy suffice to say that a person is entitled to protection of-law from being exposed to hazards of electromagnetic fields or any other such hazards which may be due to installation and construction of any grid station, any factory, power station or such like installations. Under the common law a person whose right of easement, property or health is adversely affected by any act of omission or commission of a third person- in the neighbourhood or at a far off place, he is entitled to seek an injunction and also claim damages, but the Constitutional rights are higher than the

legal rights conferred by law be it municipal law or the common law. Such a danger as depicted, the possibility of which cannot be excluded, is bound to affect a large number of people who may suffer from it unknowingly because of lack of awareness, information and education and also because such sufferance is silent and fatal and most of the people who would be residing near, under or at a dangerous distance of the grid station or such installation do not know that they are facing any risk or are likely to suffer by such risk. Therefore, Article 184 can be invoked because a large number of citizens throughout the country cannot make such representation and may not like to make it due to ignorance, poverty and disability. Only some conscientious citizens aware of their rights and the possibility of danger come forward."

19. As a consequence of above discussion it is held as under: -

- (i) All public carrying vehicles, including buses, vans, trucks, taxies, rikshaws, etc., not worthy of roads and are being driven throughout in the country contrary to the provisions of Motor Vehicle Ordinance, 1965, without obtaining fitness certificates as well as rout permits, are hereby ordered to be kept off the roads forthwith.

A comprehensive report in this behalf shall be submitted by the Provincial Chief Secretaries and Chief Commissioner ICT within 30 days for our perusal in Chambers and passing further orders, if need be.

- (ii) All the Regional Transport Authorities in the Provinces are directed to issue fitness certificates strictly in accordance with the rules and not to allow any vehicle not worthy of roads to come on roads, thereby allowing the owners and

the drivers to cause insecurity to the lives of the passengers, so that their lives could be protected from road accidents in future.

- (iii) Chief Inspector of Explosives, in exercise of powers conferred upon them under the Mineral Industrial Gases Safety (MIGS) Rules, 2010 read with Petroleum Rules, 1937, shall ensure action against decanting of Liquefied Petroleum Gas (LPG), illegal sale of petrol and unfit vehicles, by carrying out inspection from time to time.
- (iv) The OGRA is also directed to ensure strict action against the license holders running the petrol pumps and CNG stations, if they are found selling lose petrol or providing CNG to the vehicles which have either unbranded cylinders or cylinders of substandard brands not approved by concerned authorities, as it appears that the reasons invariably of such like incidents are, either extinguishing of fire due to lose petrol lying inside the vehicles or due to explosion of cylinders which are manufactured contrary to the provisions of MIGS Rules, 2010 read with Gas Cylinder Rules, 1940.

All commercial vehicle owners are hereby directed to remove from their vehicles the CNG cylinders which have not been fitted by the approved companies/authorized dealers, to avoid any such incident in future.

- (v) IGP, Punjab is directed to take appropriate action against the persons who are responsible for the happening of incident of Gujrat dated 25.05.2013. The Government of

Punjab is also directed to provide compensation to the aggrieved families of the children and the teacher, who lost their lives in the said incident, if already they have not been compensated.

20. Petition stands disposed of in the above terms.

Chief Justice

Judge

Judge

Announced in open Court on 09.12.2013 at Islamabad

Chief Justice

Approved For Reporting