

**WPMS No. 2112 of 2011**

**Hon'ble Rajiv Sharma, J.**

Mr. Amar Shukla, Advocate for the petitioner.

Mr. B.S. Parihar, Standing Counsel for the State.

Mr. Ashish Joshi, Advocate for the respondent no.6.

Heard.

The Court has passed following directions on 07.09.2017.

“1. All the Regional Transport Officers, Assistant Regional Transport Officers (Enforcement) as well as the Regional Transport Authorities, throughout the State of Uttarakhand, are directed to ensure due compliance of the provisions of Sections 66, 86 and 88 of the Motor Vehicles Act, and the Rules framed thereunder, by conducting the surprise checks.

2. It shall be the duty of the respondent-State to ensure that no buses of adjoining States are plied without any reciprocal arrangement entered into between the State of Uttarakhand and the adjoining States.

3. The State Government is directed to ensure that all the motor vehicles registered under the Motor Vehicles Act i.e. Schools Vans, Private Buses, Maxi Cab, Auto-rickshaws, Tempos, Tata Magic, Tata Maximo, *Jugad* etc. are plied strictly in conformity with the law and the Rules framed under the Motor Vehicles Act.

4. All the Senior Superintendents of Police/Superintendents of Police are directed to check overloading in the public conveyance as well as in transport vehicles including School Vans.”

It is specifically averred in the application that the officers of Transport Department have not complied with the direction nos.1 and 3 punctually, issued by this Court.

The bus accident has taken place on 01.07.2018 claiming as many as 48 lives. Out of these 48 passengers, 12 were children.

According to the newspaper item, published in the daily edition of Amar Ujala, the bus was overloaded. The sitting capacity of the bus was 28 passengers. However, the fact of the matter, is that 61 passengers were permitted to travel in the bus.

In case, the directions issued by this Court, more particularly, direction no.3 had been complied with in letter and spirit, the loss of precious human lives could be avoided. The Authorities are moot spectators to the overloading in Government and private vehicles. The overloaded buses plied by the corporation or by the private owners are visible on road but even then, they are not *challaned*.

Every citizen has a Right to Travel in the public transport. It is the duty cast upon the private owners to whom permits are issued under the Motor Vehicles Act, 1988 and the rules framed thereunder and the Uttarakhand Transport Corporation to take all necessary safety measures for the commuters.

The owners of the private buses and the officers of the Transport Corporation should be aware of the geographical conditions of the State of Uttarakhand. The roads are narrow and there are no barricades/parapet on the road. The pothole is one of the main reasons of the accidents.

All the officers of the Transport Department and Uttarakhand Road Transport Corporation are directed to check out every transport vehicle plying in the State of Uttarakhand to arrest the menace of overloading around the clock.

The officers concerned shall also ensure that transport vehicles do not ply in neutral.

All the buses plied by Uttarakhand State Transport Corporation

and Private Transporters shall only be stopped at the authorized eateries.

The Chief Medical Officers of each district of the State of Uttarakhand is directed to depute special staff during night time to check the tendency of consumption of alcohol by the drivers by breath analyser and to maintain its proper record.

The disciplinary proceedings shall be immediately commenced, if any driver is found under the influence of the alcohol/liquor.

The eye sight of all the drivers of the Uttarakhand State Transport Corporation and Private Transporters shall be checked within 15 days' from today.

It is made clear that conditions of the service of the persons appointed on contractual basis as drivers/conductors shall be the same as of regularly appointed drivers/ conductors.

All the Hon. Members of the Bar Associations, throughout the State of Uttarakhand are permitted to point out the overloading in the buses, vans, jeeps, trucks, tempo, more particularly, school buses, to the concerned authorities in writing or on telephone including by way of whatsapp, e-mail, twitter etc. The concerned authorities shall maintain the record of the same and the action taken shall be conveyed to the learned advocates.

Accordingly, before the Court proceeds further, the Secretary, Transport, to the State of Uttarakhand and the Transport Commissioner are

directed to remain present in the Court on the next date of hearing to explain why the direction nos.1 and 3 have not been complied with in letter and spirit.

List this case on 06.07.2018.

Let a certified copy of this order be issued to learned counsel for the parties, today itself, on payment of usual charges.

**(Rajiv Sharma, J.)**  
**04.07.2018**

NISHANT