

**Personal Attention**  
**HIGH COURT MATTER**

No. Home (A) E (3) 240/2010  
Government of Himachal Pradesh  
" Home Department"

From Dated Shimla-171002 the 21 November, 2011  
The Principal Secretary (Home) to the  
Government of Himachal Pradesh.

To All the District Magistrates in  
Himachal Pradesh, Shimla-2.

**Subject:** 1.CWP No.1916/2009-Parma Nand Klanta vs State of HP& ors.  
2. CWP No.7784/2010-Samidha Society vs State of HP & ors.

Sir,

I am directed to say that the Hon'ble High Court has passed certain orders to check the Noise Pollution etc, a copy of the orders dated 14-10-2011 has been hosted on the Home Departments website.

You are, therefore, requested to pass necessary directions to the law enforcing Agencies working under you.

**This be treated as most urgent being High Court Matter.**

Yours faithfully

*[Signature]*  
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*[Signature]* Deputy Secretary (Home) to the  
Government of Himachal Pradesh

1. TIME BOUND.  
2. Put up file immediately for discussion with P.Sec (H)

**TIME BOUND  
HIGH COURT MATTER**

No. CWP-1916/2009- 35603  
Department of Advocate General,  
State of Himachal Pradesh, Shimla.

19/11  
21/11/2011  
DSC(H)  
Have-c  
21/11/10  
51970828-AA  
02-11-11

Dated:- 20.10.11

To

1. The Pr. Secretary (Home) to the Govt. of Himachal Pradesh, Shimla-2.
2. The Pr. Secretary (Finance) to the Govt. of Himachal Pradesh, Shimla-2.
3. The Pr. Secretary (Transport) to the Govt. of Himachal Pradesh, Shimla-2
4. The Pr. Secretary (Environment, Science & Technology) to the Govt. of Himachal Pradesh, Shimla-2.
5. The Director General of Police, Himachal Pradesh, Shimla-2.
6. The Director of Transport, Govt. of Himachal Pradesh, Shimla.

Subject: - 1.CWP No. 1916/2009-Parma Nand Klanta vs. State of HP & ors.  
2. CWP No. 7784/2010-Samidha Society vs. State of HP & ors.

Sir,

It is intimated that the aforesaid writ petitions were listed before the Hon'ble High Court of HP on 14-10-2011 when the Hon'ble Court has passed detailed order for taking necessary steps on the part of concerned Officers/Departments w.r.t. Noise Pollution, Pressure Horns/Multi tone horns, Use of Mobile Phones while driving, Drunken Driving, HRTC Taxis, Ambulances on the Mall Road and Army Vehicles, Strict compliance of the provisions of the Shimla Roads Users and Pedestrians (Public Safety and Convenience) Act, 2007 and Unauthorized light on Vehicles. Photo copy of order dated 14-10-2011 is enclosed herewith for compliance of the same.

The Pr. Secretary (Home), Pr. Secretary (Transport), Pr. Secretary (Environment) and Director of Transport is further requested to circulate the aforesaid order dated 14-10-2011 amongst all the Deputy Commissioner, all the Superintendent of Police, all Regional Transport Officers and other concerned Officers/Departments directing them to take necessary steps for compliance of said order on their parts

All concerned are, therefore, requested to file compliance affidavit well before next date i.e. 30-12-2011.

Yours faithfully,

(Vivek Singh Thakur)  
Addl. Advocate General,  
Himachal Pradesh, Shimla.  
94180-40899

Encls=As above.

Copy of this order has been furnished to Home-c  
19/11/2011

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CWP No. 1916 of 2009 with  
CWP No. 7784 of 2010.

14.10.2011 Present: *CWP No. 1916 of 2009*  
Mr. S.C.Sharma counsel for the petitioner.

Mr. Vivek Thakur Addl. A.G. with Mr. Rajesh  
Mandhotra, Dy. A.G. for respondents 1 to 4 and 6.

Mr. Yashverdhan Chauhan vice Mr. Anil Chauhan  
counsel for respondent No.5.

Mr. Bipin C.Negi counsel for respondent No.7.

Mr. Adarsh Sharma counsel for the HRTC.  
Mr. Sandeep Sharma, ASGI for the Union of India.

*CWP No. 7784 of 2010*

Mr. Vikram Thakur counsel for the petitioner.  
Mr. Vivek Thakur Addl. A.G. with Mr. Rajesh  
Mandhotra, Dy. A.G. for respondents 1, 2 and 4.  
Mr. Yashverdhan Chauhan vice Mr. Anil Chauhan  
counsel for respondent No.3.  
Mr. Adarsh Sharma counsel for the HRTC.  
Mr. Sandeep Sharma, ASGI for the Union of India

On the last date we had detailed discussions  
with the District Magistrate, Shimla, Superintendent  
of Police, Shimla and the Motor Vehicle Inspector,  
Shimla. We had also widened the scope of the  
petition and had requested the parties and the  
counsel to give their suggestions. A large number of  
suggestions were received by us and after going  
through the same we are issuing the following  
detailed directions:-



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*Noise Pollution:*

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On 1.4.2011, we had passed a detailed order relating to noise pollution. We had directed all the 12 District Magistrates, Superintendents of Police and Motor Vehicles Inspectors to file their affidavits in respect of certain queries raised by this Court in the said order. We had also directed the authorities concerned to take action against the offenders. We had held the District Magistrates, Superintendents of Police and Motor Vehicles Inspectors responsible for ensuring the implementation of orders with regard to the pressure horns. We have been informed that Motor Vehicles Inspectors have no powers to challan and therefore, the word 'Motor Vehicles Inspectors' in the said order shall be read as 'Regional Transport Officers', who have the powers to challan.

We are disheartened to note that the number of challans have fallen drastically after the earlier writ petitions were disposed of. In the affidavits filed by the District Magistrates/Superintendents of Police, it has been stated that they have no meters/instruments to measure the noise level and that the matter for procuring the same has been taken up with the Government.

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Keeping in view the urgency of the matter, we issue directions to the Principal Secretary (Home) to the Government of Himachal Pradesh and to the Principal Secretary (Finance) to the Govt. of H.P. to give approval for purchase of at least two noise meters in each of the districts. The amount collected as fine on account of the challan(s) can itself be utilized for purchase of the noise meters. We also direct that in case any person/provider of sound system, such as, tent houses or other disc jockeys, etc. violates our orders then the authorities concerned shall seize their equipments and such equipments shall only be released after an application is filed in this Court. In case no application for release is filed within three months of the seizure the concerned official can auction the equipment after public notice.

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We may also clarify that if permission is granted by the District Magistrate for using the amplifiers/loudspeakers this permission will be valid only upto 10 p.m and no amplifiers/loudspeakers can be used from 10.00 p.m to 6.00 a.m. Even between 6.00 a.m to 10.00 p.m the maximum decibel limits should be between the permissible limits indicated in our earlier orders.

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Other than Shimla, Kinnaur and Lahul Spiti, we find that in the other districts not much progress has taken place in controlling noise pollution. We would like to emphasize that more serious efforts have to be taken to ensure that noise pollution is controlled and brought within the permissible limits.

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There is a wide spread practice of high decibel music being played in parties and other function such as, marriages, birthday parties and also at religious and social functions. When the concerned authorities go to these functions to stop the playing of music at high decibel level or to stop music in the prohibited hours they shall respect the sentiments of the people and politely tell them about the orders of the Court. The orders of the Court must be obeyed but this can be ensured in a graceful and civil manner. In case the organizers of such events put up resistance or object to the officials carrying on their duties they can be challaned and prosecuted in Court and in addition thereto the concerned authority can file an application in this Court that such person had violated the orders of this Court and then contempt proceedings can be initiated against the said person(s). In case the organizers (other than proposed tent house services, sound system provider,

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disc jockeys) voluntarily obey the orders of the Court their equipment shall not be seized but in case they put up resistance or try to defy the orders of the Court then the sound system shall be seized in the same manner as in the case of tent houses, sound system provider, disc jockeys, etc.

As far as noise pollution and pressure horns/multi tone horns are concerned Officials of the H.P. Pollution Control Board are also vested with powers to challan the person(s) on the spot.

***Pressure Horns/Multi tone horns:***

As far as the use of pressure horns/multi tone horns are concerned, we find that even today pressure horns/multi tone horns are being used with impunity day in and day out. Much more stringent action is required to ensure that pressure horns/multi tone horns are not used. The use of pressure horns/multi tone horns is totally illegal. We, therefore, direct that in case any vehicle is found using a pressure horn/multi tone horns, other than challaning the owner/driver of the vehicle, the concerned authorities shall seize the pressure horn/multi tone horn and destroy the same at the spot.

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We may also emphasise that the use of pressure horns/multi tone horns cannot be checked merely at the stage of passing of the vehicle. Only commercial vehicles are taken for fitness check and pressure horns/multi tone horns are now being used on all types of vehicles.

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The authorities shall also prepare a data base with the number of the vehicle, name of the driver of the vehicle and owner who were challaned for using pressure horns/multi tone horns and this data shall be maintained in such a manner so that if a second offence is committed by them it is easy to identify the owner and driver of the vehicle. In case of repeated offences by them the vehicle can be seized by the authorities concerned and shall not be released except with the permission of the Court.

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The State shall also put up hoardings at all the entry points to the State of Himachal Pradesh informing the motorists that the use of pressure horns/multi tone horns is totally banned in Himachal Pradesh and the use of the same shall entail, heavy fines and penal action. When vehicles enter Himachal Pradesh they all have to pay Toll charges. The authorities can examine the feasibility of the suggestion that from the next financial year



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the person who is given the contract of recovering the Toll Tax shall also check whether the vehicle(s) entering Himachal Pradesh has a pressure horn/multi tone horn.

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We are not at all satisfied about the manner in which the monitoring of pressure horns is being done and we direct the Police Officials, District Magistrates and the Regional Transport Officers to ensure that monitoring is done very strictly and they shall on or before the next date file an affidavit in Court stating what action has been taken in this regard.

***Use of Mobile Phones while driving:***

We have repeatedly seen that the persons driving motor vehicles are using Cell phones at the same time. This is a driving hazard and a major cause of accidents. The authorities concerned are directed to take strict action in the matter and they must challan the person using mobile/Cell phone while driving. We further direct that such endorsement of the violation of the driving rules shall be made on the driving license by punching the driving license. The State shall also maintain a data base in the similar fashion as noted above so that if a person is found driving the vehicle while holding the Cell phone second time his vehicle can be seized by

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the authorities concerned and shall not be released except with the permission of the Court.

***Drunken Driving:***

Drunken driving is one of the biggest menaces in the State and the figures given to us by the members of the Bar suggest that majority of the accidents are caused due to drunken driving. We ourselves have noticed that while driving from Kalka towards Solan on the National Highway, especially on holidays, tourists can be seen standing on the road side consuming liquor. This practice must be stopped and the Superintendents of Police of all the Districts concerned are directed to ensure that concrete steps are taken to ensure that nobody indulges in drunken driving. Drinking in public places is also an offence and the people should be informed that in case they do not desist from drinking in the public places they will be prosecuted in accordance with law. The Motor Vehicles Authorities, the Police Authorities, the Transport Authorities and the Courts should make endorsement on license of the drivers who violate the driving rules. All concerned should ensure that whenever a person is challaned an endorsement is made on the driving license and appropriate data

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base as indicated above is maintained to ensure that repeated offenders can easily be traced out.

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The Secretary (Home) & Secretary (Finance) to the Government of Himachal Pradesh are directed to ensure that Alcohol Detection Analyzers; at least 20 each are provided in the Districts of Shimla, Mandi, Kangra, Solan and Kullu and 10 each in all other districts.

There are some Shimla specific problems which have been pointed out to us.

**HRTC Taxis:**

A number of taxis are now being run by the HRTC directly or through transporters at various points in the restricted and sealed portion of Shimla city also. Initially the idea of introducing these taxis was to provide transport facilities to the elderly and disabled persons but now they are being used as a means of transport. The S.P., Shimla is directed to monitor such taxis since we have been receiving complaints that these taxis ply at a high speed and use horns even in the areas where the use of horns is prohibited. The HRTC through its Managing Director, Shimla is impleaded as a party to the petition and Shri Adarsh Sharma waives service of notice on behalf of the HRTC and he is directed to inform the

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HRTC about this order. The Managing Director shall ensure that all the drivers of these taxis are informed that the taxis should run at the speed prescribed in these areas and shall not use the horn unless necessary otherwise the license(s) of the operator(s) shall be cancelled by the Court.

The Managing Director of the HRTC shall ensure that some system is devised whereby these vehicles are used mainly for carrying senior citizen and disabled persons and not run like a transport services in the sealed and restricted areas. At the main destinations e.g. C.T.O, Shilpa Club, Regal Cinema, notices should be put up that first preference shall be given to senior citizens and disabled and others shall be allowed to travel if there are vacant seats.

***Ambulances on the Mall Road:***

Another complaint is that a large number of ambulances are plying on the Mall Road and are in fact used to ferry passengers in the sealed and prohibited areas. We ourselves have noticed that ambulances are plying very frequently. These ambulances are those which belong to private institutions and these have been donated showing them to be ambulances but are actually being used

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like taxis in the sealed areas. The District Magistrate, Shimla shall on or before the next date give to us a list of all the ambulances run by private organisations in Shimla. We further direct that all these ambulances shall be directed to maintain a log book about the passengers they carry with the place of origin to the place of destination. The District Magistrate shall also check from the doctors whether such patient(s) actually got any treatment or not. The vehicles of all organisations including Age Care shall be subject to such condition. We further direct the District Magistrate and the Superintendent of Police, Shimla to ensure that on or before the next date they formulate a proper policy for parking and use of these ambulances in a systematic manner. They should also take into consideration whether with the induction of 100 ambulances under the Atal Swasthya Sewa there is any need for private ambulances or not.

***Army Vehicles:***

We have received a large number of complaints that Army vehicles without any permission ply in the sealed or restricted areas. The law is the same for all including the Army Officials. Only those vehicles shall be permitted to ply in the sealed/restricted

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areas which have obtained permission from the authorities under the Shimla Roads Users and Pedestrians (Public Safety and Convenience) Act, 2007 (hereinafter referred to as the Act). Otherwise, these vehicles shall be challaned. We have informed Shri Sandeep Sharma, learned Assistant Solicitor General of India of this order who shall inform the concerned authorities and they shall ensure that no vehicle of the army unless specifically permitted shall ply in the sealed and restricted areas under the said Act.

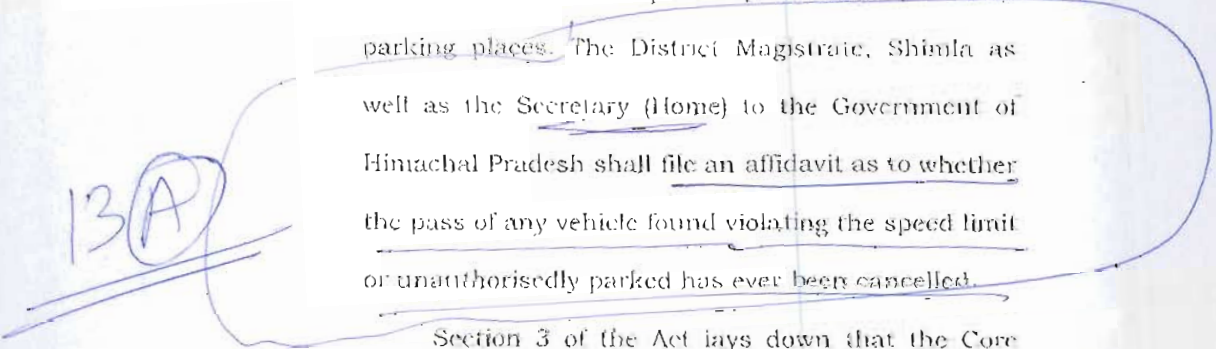
**Strict Compliance of the provisions of the Shimla Roads Users and Pedestrians (Public Safety and Convenience) Act, 2007:**

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This Act was enacted to restore the sanctity of the Shimla Mall Road by preventing its use as a thoroughfare and to provide for regulation of vehicular traffic in the interest of public safety and convenience, on the sealed and restricted roads of Shimla town. Section 10 of the Act provides that vehicles shall not ply on the sealed and restricted roads at a speed of more than 20 Kilometers per hour. The pass of any vehicle violating such speed limit is liable to be cancelled. It should be ensured that all the vehicles whether they belong to high dignities, senior govt. officials, public utility services,

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ambulances, etc. ply below the prescribed speed limit and the only exception shall be for ambulances and fire brigades in an emergent situation. The persons granted passes under the Act are required to park their vehicles either in private premises or permitted parking places. The District Magistrate, Shimla as well as the Secretary (Home) to the Government of Himachal Pradesh shall file an affidavit as to whether the pass of any vehicle found violating the speed limit or unauthorisedly parked has ever been cancelled.



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Section 3 of the Act lays down that the Core Mall Road area cannot be used by any vehicle except the President of India, the Vice-President of India, the Prime Minister of India, the Governor of Himachal Pradesh and the Chief Minister of Himachal Pradesh. No other vehicle can ply on the Mall Road but it has been observed that vehicles of some other dignitaries including Army Officers ply in the Core Area. It shall be ensured that the provisions of the Act are implemented in letter and spirit by the District Magistrate, Shimla and Superintendent of Police, Shimla.

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**Unauthorised Lights on Vehicles:**

Another complaint which is being received by us is that a large number of vehicles are using

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mercury lights of high intensity in the headlights  
The RTO, Shimla is directed to file an affidavit by the  
next date informing us what are the prescribed  
norms with regard to the use of lights on motor  
vehicles so that we can issue necessary instructions  
in this regard also

The Court Secretary is directed to provide  
authenticated copy of this order to Shri Vivek  
Thakur, learned Adll. Advocate General. Shri  
Sandeep Sharma, learned Asstt. Solicitor General of  
India, S/Shri Adarsh Sharma, Vikram Thakur and  
S.C.Sharma, Advocates.

List on 30<sup>th</sup> December, 2011.

14<sup>th</sup> October, 2011.

*Self*  
( Deepak Gupta )  
Judge.

*Self*  
( Sanjay Karol )  
Judge.

Authenticated Copy  
*[Signature]*  
18/10/2011

Office of the District Judge  
Shimla