

**MOST RESPECTFULLY SHOWETH:**

1. This writ petition is being filed in public interest, to urge protection of the citizens' 'right to life' and the 'right to live in a safe environment'. The present petition seeking a writ/direction(s) from this Hon'ble Court is directed against the use of black filmed glasses in vehicles which gives much impunity to the violators in committing a crime and owing to this fact there has been considerable hike in criminal activities. On account of this approach of the offenders/terrorists' usage of vehicles with back film on their glasses while execution of various criminal activities has put into peril human life and national security of this nation.
  
2. That the Petitioner is the founder of registered society formed for the purpose of protection of public interest by way of public interest litigation in an organized manner. The Petitioner is also the Founder President of the society.

3. That the respondents are the Union of India, through the Ministry of Home Affairs (MHA) and the Ministry of Transport. Article 355 of the Constitution enjoins the Union to protect State against external aggression and internal disturbance and to ensure that the affairs of the government of every State are carried on in accordance with the provisions of the Constitution.
  
4. That the manner in which there has been excessive rise in various criminal/terrorist activities in different parts of the country, especially in the metro cities, this petition is being filed to seek the effective order of this court to ban forever, the use of glasses with black films in vehicles in the country. The petition specifically, seeks:
  - a. Protection of the citizens' 'right to life and liberty and safety' (under Article 21 of the Constitution of India) which gets endangered owing to the unbridled use of vehicles having black filmed glasses for the execution of such criminal activities. AND

b. Ban on the use of vehicles with black filmed glasses has put national security under peril owing to the increase in terrorist activities. The rule 100 of the Motor Vehicles Rules, 1989 must be repealed considering the fact that we are aware of the unfair use of the tinted glasses.

Rule 100 of the Motor Vehicles Rule, 1989 is reproduced for kind perusal of this Hon'ble Court.

100. Safety glass.—(1) The glass of windcreens and the windows of every motor vehicle [other than agricultural tractors] shall be of safety glass:

Provided that in the case of three-wheelers and vehicles with hood and side covers, the windows may be of [acrylic or plastic transparent sheet.]

Explanation.—For the purpose of this rule,—

(i) "safety glass" means glass [conforming to the specifications of the Bureau of Indian Standards or any International Standards [\* \*]

\*]] and so manufactured or treated that if fractured, it does not fly or break into fragments capable of causing severe cuts;

(ii) any windscreen or window at the front of the vehicle, the inner surface of which is at an angle [more than thirty degrees] to the longitudinal axis of the vehicle shall be deemed to face to the front.

[(2) The glass of the windscreen and rear window of every motor vehicle shall be such and shall be maintained in such a condition that the visual transmission of light is not less than 70%. The glasses used for side windows are such and shall be maintained in such condition that the visual transmission of light is not less than 50%, and shall conform to Indian Standards [IS: 2553— Part 2—1992];

[(3) The glass of the front windscreen of every motor vehicle [other than two-wheelers and agricultural tractors] manufactured after three years from the coming into force of the Central Motor Vehicles (Amendment) Rules, 1993 shall be made of laminated safety glass: [Provided

that on and from three months after the commencement of the Central Motor Vehicles (Amendment) Rules, 1999, the glass of the front windscreen of every motor vehicle other than two-wheelers and agricultural tractors shall be made of laminated safety glass conforming to the Indian Standards IS: 2553—Part 2—1992.]

Explanation.—For the purpose of these sub-rules "laminated safety glass" shall mean two or more pieces of glass held together by an intervening layer or layers of plastic materials. The laminated safety glass will crack and break under sufficient impact, but the pieces of the glass tend to adhere to the plastic material and do not fly, and if a hole is produced, the edges would be less jagged than they would be in the case of an ordinary glass. The glass of the front windscreen of a construction equipment vehicle manufactured after 3 years from the date of commencement of the Central Motor Vehicles (Sixth

Amendment) Rules, 2000 shall be made of laminated safety glass.]

(4) Notwithstanding anything contained in this rule if the Central Government is of the opinion that it is necessary and expedient to do so in public interest, it may, by order published in the Official Gazette, exempt 198 [any motor vehicle including construction equipment vehicle] for use by any person, from the provisions of this rule.]

5. That the petition arises out of the rapid increase in criminal and terrorist activities recently in the country. This PIL highlights the grave issue of non-observance of norms/regulations/guidelines related to the use of black films in the front and rear windscreens and the side windows of the vehicles. Transgressors can move undetected with no difficulty in a car with black films. Kidnapped individual(s) can be moved at ease, without arousing suspicion, in a car with glasses with black film. Similarly, the females are being subjected to sexual assault under cover of black films over

glasses and the same will go undetected. This has put the life and property of Indian Citizens and public property in the territory of India into peril and jeopardy.

6. That it is humbly submitted before this Hon'ble Court that validity of the provision itself is challenged by the petitioner herein. The rule prescribing a ceiling of 50% visibility for side windows and 70% visibility for front and rear windows must be amended with 100% VLT for all the glasses of a vehicle. It is pertinent to mention that the word "tinted" means shade or hue as per the dictionary meaning. The rear, front and side window glasses of vehicles are provided with such shadow or tint therefore they are referred widely as "tinted glasses", however; it would be appropriate to term it as "black film". The vehicles have black shadow on their glasses owing to the fact that those glasses receive coating of black film. Thus, a tinted glass cannot be produced by the manufacturers; rather they receive coating of black film after the vehicles roll out of production units.

7. That it is relevant to bring to the notice of this Hon'ble Court that the use of black films is creating many avoidable problems in terms of increase in the crime rate and the remedy for any such difficulty would lie in a suitable amendment of the Rule by the rule making authority. Adequate enough to say that in a matter covered by a statutory provision, it is humbly submitted before this Hon'ble Court that while dealing with this petition that this Hon'ble Court may direct the necessary amendment in the statutory provision related to the black films used in the vehicles.
  
8. That in the month of June, 2010, the petitioner had given intimation to the Home Ministry and Prime Minister's Office regarding the issues and grounds enumerated in this petition. The said correspondence was made for consideration of the gravity of the issue pertaining to the national security and life of the citizens of this nation. There was no reply or any communication to the letter of the petitioner. The contents of the said letter are identical to the issues and grounds submitted in

this petition. A copy of the said letter has been annexed as **ANNEXURE P/1**.

9. That it is further relevant to submit before this Hon'ble Court that the national security and the life and liberty of the citizens' as envisaged under the Constitution of India cannot be compromised owing to some inconsequential benefits associated with the use of tinted glasses in vehicles. Contentions may be raised that black films in vehicles reduces heat retention in the vehicles. It is submitted most humbly that customarily the occupants of vehicles with black films on glasses switch on the air conditioning of their vehicles, when they pull up the window glasses, which neutralizes the effects of harsh weather conditions. Absence of black film, will only delay the effective cooling by one or two minutes but will save life and liberty of human beings. As far as privacy on roads is concerned, it is further humbly submitted that national security and perils pertaining to life and security of the citizens of the nations owes manifold added concern than the trivial issues of privacy and measures for life and security has to prevail over privacy.

10. That the petitioner had sought information from different authorities through Right to Information applications. These applications were filed by the petitioner pursuant to the rules envisaged under the Right to Information Act, 2005. The queries which had been raised by the petitioner through his RTI applications has been listed and annexed as **ANNEXURE P/2.**

11. Rule 100 of the Central Motor Vehicles Rules, 1989  
(hereinafter “Rules” or “CMVR”)

The Rules shall be read as follows:

100. Safety glass.—(1) The glass of windcreens and the windows of every motor vehicle [other than agricultural tractors] shall be of safety glass:

Provided that in the case of three-wheelers and vehicles with hood and side covers, the windows may be of [acrylic or plastic transparent sheet.]

Explanation.—For the purpose of this rule,—

(i) "safety glass" means glass [conforming to the specifications of the Bureau of Indian

Standards or any International Standards [\* \*  
\*]] and so manufactured or treated that if  
fractured, it does not fly or break into  
fragments capable of causing severe cuts;

(ii) any windscreen or window at the front of  
the vehicle, the inner surface of which is at an  
angle [more than thirty degrees] to the  
longitudinal axis of the vehicle shall be deemed  
to face to the front.

[(2) The glass of the windscreen and rear  
window of every motor vehicle shall be such  
and shall be maintained in such a condition  
that the visual transmission of light is not less  
than 70%. The glasses used for side windows  
are such and shall be maintained in such  
condition that the visual transmission of light  
is not less than 50%, and shall conform to  
Indian Standards [IS: 2553— Part 2—1992];

[(3) The glass of the front windscreen of every  
motor vehicle [other than two-wheelers and  
agricultural tractors] manufactured after three  
years from the coming into force of the Central  
Motor Vehicles (Amendment) Rules, 1993 shall

be made of laminated safety glass: [Provided that on and from three months after the commencement of the Central Motor Vehicles (Amendment) Rules, 1999, the glass of the front windscreen of every motor vehicle other than two-wheelers and agricultural tractors shall be made of laminated safety glass conforming to the Indian Standards IS: 2553—Part 2—1992.]

Explanation.—For the purpose of these sub-rules "laminated safety glass" shall mean two or more pieces of glass held together by an intervening layer or layers of plastic materials. The laminated safety glass will crack and break under sufficient impact, but the pieces of the glass tend to adhere to the plastic material and do not fly, and if a hole is produced, the edges would be less jagged than they would be in the case of an ordinary glass. The glass of the front windscreen of a construction equipment vehicle manufactured after 3 years from the date of commencement of the Central Motor Vehicles (Sixth

Amendment) Rules, 2000 shall be made of laminated safety glass.]

(4) Notwithstanding anything contained in this rule if the Central Government is of the opinion that it is necessary and expedient to do so in public interest, it may, by order published in the Official Gazette, exempt 198[any motor vehicle including construction equipment vehicle] for use by any person, from the provisions of this rule.]

At present Rule 100 of the Rules necessitates that every vehicle ought to have a protection glass that is conforming to the specifications of the Bureau of Indian Standards and the glass which is on the front windscreen and the rear window of a vehicle, is expected to have visual transmission of light not less than 70%, while the glass of side windows is to have not less than 50% transparency conforming to the Indian Standards. The front screen is expected to be of laminated safety glass. There is no provision under the Rules which considers the use of the films on glass of the vehicle. The glasses which are normally known as 'tinted glasses' cannot be called

‘tinted glasses’ by virtue of use of films but the manufacturer have to produce such glasses.

12. That the disproportionate growth in the number of vehicles on road is also a major concern. It is most humbly submitted that a report concerning data specifying the growth in number of vehicles has been mentioned in the forthcoming para 25 below. This has also put immense pressure on security and law and order enforcement authorities. Due to non-existence of strict laws/regulations to prohibit the use of black films in vehicles, their use is extensively rampant throughout the country. Therefore, it is humbly submitted that the Hon’ble Court be pleased to issue appropriate writ(s)/order to enforce complete (100%) ban on the use of black films in vehicles in India and the Hon’ble Court be also pleased to issue appropriate writ(s)/order which shall prohibit the automobile manufacturers to instill any minimum level of black films in the glasses of vehicles.

13. That the causes, ecology and prevention of traffic accidents have held that a black filmed windshield can reduce visibility severely during day time, what to say of night. Excessive tinting is undesirable because it can interfere with visual acuity and create excessive dimness on cloudy days. This goes for dusty days too. The fact that India is also called the Dust Capital of the World, also needs to be considered. A 2005 World Bank report estimated that 13,000 lives and \$1279 million were saved annually between 1993 and 2002 in five cities Delhi, Kolkata, Mumbai, Chennai and Hyderabad — as a result of measures taken to improve air quality. The said data has been reported on 5<sup>th</sup> June, 2010 by the Times of India in its news article titled “Every Breath you take”. A copy of the said article has been annexed as **ANNEXURE P/3 (Colly)**. Furthermore, the visibility goes down considerably during winters and black film in vehicles leads to accidents/mishaps. A newspaper report titled “With winter welcome more dust” reported by the Times of India, Kolkata edition on 27<sup>th</sup> November, 2010 has been annexed as **ANNEXURE P/3 (Colly)**. While the

equivalent loss of headlight power is 30 percent the loss of effectiveness in seeing red brake or stop lights is 60 per cent as red light is transmitted through a tinted windshield with greater difficulty as compared to through an un-tinted windshield. That one can readily inspect a windshield for these features by standing in front of it and then visualising objects in or behind the car. No distortions or other irregularities should be seen. Activities prohibited in public places can be executed purposely, under the cover of tinted glasses. Activities such as consumption of liquor is easily done, which leads to thousand of death of, both the person on the wheels as well as other occupants of the vehicle, apart from those being hit by the uncontrolled vehicle. Therefore, black films in vehicle are always leading to fatal accidents as well. World Health Organisation's data pertaining to deaths caused on roads in India has crossed that of China which has more vehicles, population and area in comparison to India.

14. That a device called Luxometer was made to check the level of opaqueness owing to the black films but this device is a scarce resource and is very scantily available with the police personnel. Moreover, in India this device is available in limited numbers with Delhi Police only. Due to the scarcity of luxometers the police has been continually facing difficulty in measuring the level of opaqueness in vehicles and owing to this reason the Commissioner of Police in Delhi came with a directive that no challans shall be issued against a vehicle if the same has not be checked using a luxometer. A RTI reply dated 18<sup>th</sup> November, 2010 regarding this issued from the office of the Deputy Commissioner of Police – Traffic: (HQ): Delhi has been annexed as **ANNEXURE P/4**. It is pertinent to further mention that in addition to providing of luxometers for police personnel throughout the country, the fund allotted for that purpose be effectively utilized for maximization of police personnel/force in the country in view of the fact that India has one of the lowest police-population ratio in the world. This fact

has been further elucidated in the forthcoming paras 24 and 25 of this petition.

15. That the petitioner had sought information through an RTI application dated 18<sup>th</sup> November, 2010 made under the Right to Information Act, 2005 from the police department of Chennai. The petitioner received reply from the Deputy Commissioner of Police, St. Thomas Mount District, Chennai – 600 016 through a letter-cum-reply dated 19<sup>th</sup> November, 2010 from the said Deputy Commissioner of Police, Chennai, Tamil Nadu which contains the following facts amongst others:

- a) Black filmed/tinted glasses helps criminals to hide in the vehicle; and
- b) Usage of tinted/black filmed glasses poses threat to security and such glasses should be banned as it would screen the culprits during vehicle check.

A copy of the said letter has been annexed as

**ANNEXURE P/5.**

16. That the petitioner had sought information through an RTI application made under the Right to Information Act, 2005 from the office of the Deputy Commissioner of Police II Airport, New Delhi. The petitioner was received reply from the through a letter-cum-reply dated 29<sup>th</sup> November, 2010 issued by the said office and the reply captured the following facts amongst the others:

- a) Various crimes can be committed under the cover of black films/tinted glasses; and
- b) Use of tinted glasses/ black film in glasses poses high risk for terrorist activities.

A copy of the said letter has been annexed as **ANNEXURE P/6.**

17. That the petitioner had sought information through an RTI application under the Right to Information Act, 2005 from the police department of Chennai. The petitioner received reply from the Deputy Commissioner of Police, Madhavaram District, Chennai – 600 110 through a letter-cum-reply dated

30<sup>th</sup> November, 2010 from the said Deputy Commissioner of Police, Chennai, Tamil Nadu which captured the following facts amongst others:

- a) There is no specific limit of visibility for black films/tinted glasses in vehicles;
  - b) Fixing and using tinted glasses/glasses with black films in vehicles is a threat to security.
- a.) A copy of the said letter has been annexed as

**ANNEXURE P/7**

18. That the petitioner had sought information through an RTI application under the Right to Information Act, 2005 from the police department of Chennai through his application dated 18<sup>th</sup> November, 2010. The petitioner received reply from the Deputy Commissioner of Police, Ambattur District, Chennai Suburban Police at Avadi, Chennai – 600 054 through a letter-cum-reply dated 30<sup>th</sup> November, 2010 from the said Deputy Commissioner of Police, Chennai, Tamil Nadu which captured the following facts amongst others:

- a) Kidnapping, Smuggling and Escape of Criminals are the prominent nature of

crimes which are being aided by tinted glasses/glasses with black films; and

b) In usage of tinted glasses, one could not ascertain the identity of the person/persons behind the tinted glasses therefore it would be advantageous for the criminals travelling in such vehicles. Hence, a limit of visibility may be prescribed for such dark glasses.

A copy of the said letter has been annexed as

**ANNEXURE P/8.**

19. It is further brought to the notice of this Hon'ble Court that the petitioner had filed application under the Right to Information Act, 2005 pertaining to this matter before the Ministry of Home Affairs ("MHA"). On the RTI query pertaining to security threat posed by glasses with black film coating, the following replies were received from the MHA –

a.) The petitioner raised his query to MHA through his letter dated 29<sup>th</sup> December, 2010 wherein the petitioner sought information regarding the concern over hazard to security in relation with use of black films in vehicles.

The petitioner received a reply dated 7<sup>th</sup> December, 2010 from the MHA stating that the reply to the query sought by the petitioner is not related to VIP security Section of PP Division of MHA. A copy of the said reply has been annexed as **ANNEXURE P/9**. Further to this, the said RTI application was transferred to Kolkata Police and Ministry of Road Transport and Highways.

b.) The petitioner raised his query to MHA through his letter dated 29<sup>th</sup> November, 2010 which was reverted back by the MHA stating that the matter concerns to the Delhi Police and there is no information available with the public information officer at MHA. A copy of the said letter dated 15<sup>th</sup> December, 2010 has been annexed as **ANNEXURE P/10**.

20. That the petitioner had sought information through an RTI application made under the Right to Information Act, 2005 from Ministry of Road Transport and Highways, Transport Bhawan, 1,

Parliament Street, New Delhi – 110 016. The petitioner received reply through a letter-cum-reply dated 16<sup>th</sup> December, 2010 issued by the office of Director (Road Transport) and de-facto Public Information Officer and the reply captured the following facts amongst the others:

a) Every vehicle manufacturer is required to get prototype/type approval test of the vehicles with regard to compliance of CMVR, 1989. If the vehicles do not comply with the provisions of CMVR, 1989, testing agencies shall not issue Type Approval certificate to the manufacturers. Further, this Ministry has not received any case regarding violation of CMVR, 1989 by the manufacturers in respect of provisions made under Rule 100 of CMVR, 1989.

b.) A copy of the said letter has been annexed as

**ANNEXURE P/11**

21. That the petitioner had sought information through an RTI application made under the Right to Information Act, 2005 from the office of the Deputy

Commissioner of Police Traffic: Central Range:  
Bangla Sahib Lane, New Delhi – 110 001. The  
petitioner received reply through a letter-cum-reply  
dated 23<sup>rd</sup> December, 2010 issued by the said office  
and the reply captured the following facts amongst  
the others:

- a) There is non-availability of electronic  
device to check the visibility, therefore it  
is done manually; and
- b) No permission is granted to manufacturer  
or dealer of vehicle to install.
- c.) A copy of the said letter has been annexed as  
**ANNEXURE P/12.**

22. Further to the preceding para, it is further  
submitted humbly that the petitioner had sought  
information through an RTI application made under  
the Right to Information Act, 2005 from the office of  
the Deputy Commissioner of Police: Traffic  
(Southern Range), J.B. Tito Marg, New Delhi – 110  
049. The petitioner received reply through a letter-  
cum-reply dated 23<sup>rd</sup> December, 2010 issued by the

said office and the reply captured the following facts amongst the others:

a. Electronic device is used to check the limit of tinted glass. However, Delhi Traffic Police check manually due to lack of electronic device.

d.) A copy of the said letter has been annexed as **ANNEXURE P/13.**

23. That the petitioner had sought information through an RTI application made under the Right to Information Act, 2005 from the office of the Public Information Officer-cum-Deputy Commissioner of Police, South District, 1<sup>st</sup> Floor, DCP Office Complex, Hauz Khas, New Delhi – 110 016. The petitioner received reply through a letter-cum-reply dated 6<sup>th</sup> January, 2011 issued by the said office and the reply captured the following facts amongst the others:

a) Any crime can be committed using vehicle having black films/tinted glasses;  
and

b) Use of tinted glasses/ black film in glasses is a threat to security.

e.) A copy of the said letter has been annexed as **ANNEXURE P/14.**

24. That the petitioner had sought information through an RTI application made under the Right to Information Act, 2005 from the office of the Deputy Commissioner of Police, Traffic Western Range, Rajouri Garden, New Delhi. The petitioner received reply from the Public Information Officer of the Deputy Commissioner of Police, Traffic Western Range, Rajouri Garden, New Delhi through a letter-cum-reply dated 6<sup>th</sup> January, 2011 which captured the following facts amongst the others:

a) There is no instrument available with field staff to check the visibility of the glasses of vehicles. The challan are issued by the challaning officer according to very low or zero visibility of the glasses of vehicles.

A copy of the said letter has been annexed as **ANNEXURE P/15.**

25. That the ratio of policemen in relation to the population is very low in India as compared to other developed and developing nations of the world. It is pertinent to mention that police force is the key and primary organ which curbs transgression and maintains as well as enforces proper law and order situation in the society. A data dated 1<sup>st</sup> January, 2009, depicting the police-population ratio of the Indian states take from the source: Data on Police Organisations in India has been annexed as **ANNEXURE P/16**.

- i. That India has considerably low ratio of police personnel per lakh of population as compared to the other nations of the world. The petitioner had sought information from Bureau of Police Research and Development (hereinafter "BPR&D") through a RTI application and had a received a reply dated 7<sup>th</sup> January, 2011 regarding the said RTI query. The reply to the said RTI query is in the form of data showing comparison of country-wise total police personnel and police-population ratio during year 2001-2002 and

the same for India during the years 2003-2008. The said RTI reply depicts the fact that in the year 2008 India had only 177.7 police personnel per 1 (one) lakh of population and this ratio compared pitiably with even with countries such as Nepal whose similar ratio was 192.7 police personnel per 1 (one) lakh of population during the same time-period. Even in the year 2002 India had just 136.4 police personnel per 1(one) lakh of its population at the same time as the same ratio for countries like Mexico and Italy was as high as 491.8 and 559 respectively. The said data has been sourced from United Nations Division for Policy Analysis and Public Affairs, released on 31 March, 2005 and for India, from 2003-2007 "Data on Police Organisations in India" - BPR&D and has been annexed as **ANNEXURE P/17**.

26. That the petitioner had sought information through an RTI application made under the Right to Information Act, 2005 from the office of the

Commissioner of Police, Kolkata. The petitioner received reply from the Joint Commissioner of Police (A), Kolkata and State Public Information Officer, Kolkata Police through a letter-cum-reply dated 11<sup>th</sup> January, 2011 from the said officer which captured the following facts amongst the others:

- b) Kolkata police have not issued any permission to the manufacturer/dealers/consumers of the moving and static vehicles to initiate production/sales/installation of glasses without black films in the vehicles; and
- c) Different types of crimes i.e. kidnapping, molestation, rape, murder, abduction, robbery etc can be aided by the use of glasses with black films.
  - i. A copy of the said letter has been annexed as **ANNEXURE P/18.**

27. That the suspected individuals will be identified easily by the police if they do not use vehicle with glasses having black films. The use of vehicles having black films in their glasses perpetuates execution of crime including but

not limited to terrorist activities and transportation of illegal ammunitions. It is far easier to carry explosives hidden beneath the seats of a car with glasses with black films in comparison to the ones with clear visibility. While execution of criminal/terrorist activities, the alleged individuals/perpetrators of criminal and terrorist activities will dread driving the vehicles to the proposed spot for the probability of being identified easily, which is not possible in case of tinted glasses. Using black film in vehicles will raise suspicion and will facilitate the police to nab the transgressors. This will reduce the levels of security check owing to the fact that the first level of looking through tinted glasses will be done away with, hence enabling lesser resource utilization, thereby facilitating additional strong security, by the security enforcement authorities.

28. That the administrative authority, especially the police do not possess requisite equipments for accurate examination of the vehicles plying

on road. Luxometers is an instrument designed and made for the purpose of assessment of the extent of black film put on vehicles' glasses.

29. That the rise in offenses and reported increase in criminal and terrorist activities in our country require much more police force to be deployed in all the states of India. Police forces are required to keep vigilance on the entire affairs pertaining to illegal activities and criminal demeanor in order to control such activities so as to ensure right to life and personal liberty to each and every citizen of this country. It is pertinent to mention that owing to the tremendous increase in vehicles in India, more resources in form of deterrents needs to be allocated and banning use of black films – will be an effective deterrent. In 2004, the number of registered (car, jeeps and taxis) totaled to 51, 922 [source, [www.rtoaifmvd.com](http://www.rtoaifmvd.com)]. Private cars are estimated at 1.25crores in numbers, increasing from that of 72 lacs in numbers in 2004, since the country is adding a minimum of million cars, every year- (source – rediff business). Normally in public

vehicles, like buses and trains, there are barriers to indulge in activities of private nature as because of minimal chances of people belonging to common reconciled group occupying, the vehicle. But this is not the same in case cars, which can be owned or hired by a group of individuals, with reconciliation to indulge in activity of a private nature.

30. That it is pertinent to mention that for a country like India where the ratio of police personnel with respect to the population is so low proper allocation of police personnel in different spheres needs to be managed. This resource cannot be simply wasted for checking the black films in vehicles ensuring that no crime occurs. The idea is to check the black films in the vehicles in the beginning itself.
31. That the VIPs are provided vehicles with high level of black film in the glasses of such vehicles. Since our nation has an under resourced security set up, the relevant authorities must adopt pragmatic approach and adopt widespread systems of security compliance parameters, even if doing so causes discomfort to the very small minority of a handful

VIPs. It is most humbly submitted that the low police-population ratio in our country has already been highlighted in paras 23 and 24 hereinabove. It is relevant to mention that even the security of VIPs is at risk owing to the usage of black films in their vehicles. The vehicles with black films can be used to plot assail on the VIPs as well since VIPs can be held at ransom without being detected. It is pertinent to mention that several VVIPs (including but not limited to) such as the Prime Minister, Ministers of Cabinet rank, the Hon'ble Judges of the Supreme Court of India, various High Courts of the States and the District Court throughout the country move in vehicles which do not have black films on their glasses. These VVIPs rather use security personnel as allotted to them or as required. Ironically, it's the VIPs of much lower rank in protocol such as the Members of Legislative Assembly in States etc. who are prone to use vehicles with heavy black films on their glasses. Such people can also help perpetrators of crime and therefore, can be threat to life and security of the citizens as mentioned in this petition, in particular,

given the number of Members of Parliament, Members of Legislative Assembly and Municipal Councilors' with criminal background. Further to this, the criminals or perpetrator of terrorist or criminal activities can use vehicles with black films similar to those of VIPs as a camouflage to execute their crime obscurely.

32. The VIPs travel in vehicles fitted with a red light and inscribed over number plate the office they hold and this make them identifiable easily. Therefore, black films in their vehicles' glasses are not essential. Moreover, highly ranked VIPs are also provided with larger security and even get escort vehicles. Besides, the VIPs too can be held to ransom in a moving vehicle, which again would go undetected, due to the glass of that particular vehicle possessing black film and it specially requires strict control which cannot be permitted at the cost of the life and security of the citizens of this nation.

33. That the VIPs too can be cohort in crime executed by the use of vehicles with black films. There have been several cases where the rich and powerful are behind the scene of different criminal activities. The use of black films in vehicles of such persons can only facilitate such criminal activities further.

**Delhi High Court Judgement:**

**Court on its motion Versus Union of India and Others 139(2007) DLT244**

34. That in the month of November 2006, the High Court of Delhi, on its own motion, issued notices to the Union of India and others in view of the deteriorating traffic scenario in Delhi. The judgment in this case Civil Writ Petition No.16565 of 2006 was delivered by Hon'ble Mr. Justice Swtanter Kumar (now Hon'ble Judge of the Supreme Court of India), for the bench comprising of Justice Kumar and Hon'ble Mr. Justice H.R. Malhotra in March 2007. At the same time as observing this Rule, the Court arrived at a conclusion that safety glass which has been tinted by application of 'films' is not contemplated by the Motor Vehicles Act or the Rules

hereunder. Amongst others, this judgment dealt with black films on car window panes as well. The Court observed that “...using of black films which completely stop or substantially obstruct visibility inside the cars, are a few amongst many of the commonly committed traffic offences” (para 7). Thus, it can be construed from the aforementioned that the Court considered the use of black films to obstruct the visibility as an offence.

The relevant portions from the said judgement<sup>1</sup> are as follows:

**8.** Rule 100 of the Rules requires that every vehicle has to have a safety glass that is conforming to the specifications of the Bureau of Indian Standards or any other International Standards and the glass which is on the front windscreen and the rear window of a vehicle, is expected to have visual transmission of light not less than 70%, while the glass of side windows is to have not less than 50% transparency conforming to the Indian Standards. The front screen is expected to be of laminated safety glass. There is no provision under the Act or

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<sup>1</sup> 139(2007)DLT244

the Rules which contemplates the use of the films on glass of the vehicle. The glasses which are normally known as 'tinted glasses' cannot be called 'tinted glasses' by virtue of use of films but the manufacturer have to produce such glasses. The manufacturers are producing cars with 'tinted glasses', which are required to pass the test/inspection by the competent authorities as well as are required to get clearance from the technical committees constituted in accordance with law. Thus, use of black films is prohibited by law and what is impermissible to be achieved directly, cannot be strictly enforce this condition.

**9.** Besides that it offends the law, use of black films has a very serious and dangerous consequence even in the field of crime. It is a common knowledge that the cars or vehicles involved in commission of heinous crimes like kidnapping, abducting, rape and other serious offences, normally carry jet black films, thus, totally preventing the offenders from being seen/identified by any person on the road.

**10.** During the course of hearing, the learned counsel appearing for the various authorities

accepted this position. What is more important is that the Additional Commissioner of Delhi Police, Incharge of Traffic, who appeared in the Court, fairly stated that majority of the cars/vehicles involved in commission of crimes use the black films through which it is impossible to see inside the cars even from a very close distance. Lack of will to enforce this condition has resulted in serious prejudice to all concerned though it might have proved as a boon for the criminals.

**11.** Another aspect of this traffic offence is that the authorities are required to allow use of black films for security reasons, particularly in relation to the persons to whom high security is provided for their protection. This obviously being restricted to a very limited class of society, cannot, therefore, be permitted to defeat the law as well as endanger the life of a common man, particularly the women and children. Due provisions need to be made/amended and we hereby constitute a Special Committee of which Home Secretary, Delhi, Additional Commissioner of Police (Security) and Additional Commissioner Police (Traffic), shall be the members.

This Special Committee shall examine the perception of threat of security to any person, who applies to the Committee for grant of permission to use black films on the car. We do hope that the Special Committee shall use its discretion discreetly and in genuine cases. The Committee shall issue a certificate under its seal, which shall be kept in the official car of the person to whom such permission is granted. No vehicle, to whomsoever it may belong, would have the black films on the glass/screen of the car, unless it has specific permission of the concerned authority, bearing the car number as well. All other cars/vehicles are hereby prohibited from using the black films of any transparency on their cars. We may also refer that similar orders were passed by different courts in the country and the Supreme Court in the case of Chandigarh Administration and others vs. Namit Kumar and ors. AIR 2005 Supreme Court 1386 has upheld such an order and directed as under. One other direction which has been assailed relates to the use of black films on the glasses. It is submitted that Central Motor Vehicles Rules, 1989 (in short

'Central Rules') provide for the measure to be taken in such cases achieved indirectly. The authorities and the traffic police are required to strictly enforce this condition.

We, therefore, modify the direction of the High Court to the extent that while carrying out the directions, the mandate of sub-rule (2) of Rule 100 shall be kept in view. This shall be in addition to any security requirement as may be laid down by the law and order enforcing agencies.

**12.** Thus, we are of the considered view that this direction needs to be enforced vigourously by the Enforcing Agencies. We find that sub-rule (20 of Rule 100 of the said Rules deals with the issue.

35. The Hon'ble High Court, however finally went on to direct that no vehicle shall have black film on its window/screen:

**“14.**No vehicle to whomsoever it may belong would have the black films on the glass/screen of the car, unless it has specific permission of the concerned authority, bearing the car number as well.”

36. The judgment was subjected to Review in CM No. 9754 of 2007 and CM No. 13271 of 2007 instituted by car films' dealer and manufacturer respectively. The judgment delivered by a Bench comprising of Justice T.S. Thakur (now Hon'ble Judge of the Supreme Court of India) and Justice H.R. Malhotra observed that the judgment under Review suffered from an error apparent on the face of the record, holding as follows:

The requirement, precisely speaking, is that the glass of the windscreen must not have a visual transmission of light less than 70% on the front and the rear windscreen and 50% on the side windows. The rule does not forbid manufacture or use of glass with a higher visual transmission than the minimum prescribed, nor does the rule forbid use of films on the windscreens and side windows, so long as the same do not reduce the visual transmission below the minimum prescribed by the rule. The direction issued by this Court forbidding the use of black films of 'any transparency', therefore, appears to us to be in conflict with the statutory provision made by Rule 100(2) of The Central Motor Vehicles

Rules, 1989 (supra). The attention of the Court does not appear to have been drawn to the provisions of the said rule for otherwise there was no occasion for the Court to issue a direction contrary to the same in a public interest petition.

37. That the media plays a vital role in reporting crime, offense and transgression and that the media agencies maintain documentation of trail of incidents of such offense and transgression. Media has expressed its opinion umpteen numbers of times through their crime reports that innumerable number of criminal activities could have been avoided if such crimes did not involved as facilitators, the vehicles with black film glasses. The petitioner has also extended information of great credence and significance from one media agency. By virtue of the aforementioned it is humbly prayed before this Hon'ble Court that media agencies namely – Times of India Group, Ananda Bazar Patrika Group, CNN-IBN, Hindutan Times & India Today Group, be issued instructions, to extend to the Hon'ble Court, any information they happen to

posses, on the subject matter being petitioned. Media plays a vital role in exposing perils of the nation owing to its operations and has evidences in form of text, audios and videos. Furthermore, the media inputs in this petition can serve as indispensable evidence and it is pertinent to mention that media reports and inputs have been sought as evidence only and not as views.

- i. That in a recent case of PIL on Rajarhat land allotment case in Kolkata, Hon'ble Chief Justice J.N. Patel, CJ. and Hon'ble Justice B. Bhattacharya had instructed the petitioners to make newspapers party to the case owing to the fact that newspaper articles served as evidence in the case. A newspaper report on the said PIL titled, "HC admits PIL on Rajarhat land allotment" reported by the Times of India, Kolkata is filed as **ANNEXURE P/19**.

### **International Scenario**

38. The different countries of the world have imposed ban on the use of black films in vehicles in diverse

adopting diversified approaches pertaining to this issue.

a.) Afghanistan: The Government of Afghanistan has banned the use of black films in vehicles owing to the increased threat of terrorist activities. The rule has a penalty provision of impounding the vehicles violating the rule. This will have deterrence value to curb the violation and the restriction will make it easier for the authorities to see what is inside the vehicles. The law in Afghanistan is such stringent that it prohibits even diplomatic and official vehicles from having black films on their glasses. A similar measure is necessary in India which no more safe in any better way than a country like Afghanistan in terms of terrorist attacks and threats to the internal security.

i. A copy of the news reporting the same has been attached as **ANNEXURE P/20**.

ii. Nigeria: The Government of Nigeria has imposed complete ban on the use of black filmed glasses in vehicles and the same has been prescribed under Decree for Motor

Vehicles (Prohibition of Tinted Glass) Decree 1991. A copy of the aforementioned decree has been attached as **ANNEXURE P/21**.

b.) Belarus: Any kind of window tint is illegal. An exception is made for factory tint in vehicles purchased before April 1, 2006. Also exempted are vehicles of cash collectors, KGB and certain officials.

*Source:*

[http://en.wikipedia.org/wiki/Window\\_film#cite\\_note-10](http://en.wikipedia.org/wiki/Window_film#cite_note-10)

39. That the laws of Afghanistan and Belarus pertaining to the use of black filmed glasses are worth mentioning. Unlike the developed nations of the world, India lack resources to curb crime and other activities of terrorism and transgression. Contrasting the low police-population ratio of India in respect to the developed nations of the world, India is facing intricacies in checking crime involving vehicles with black films as the facilitators of such crimes. Therefore, in accordance with the present situation of this country the vehicles must have 100 per cent VLT.

On the basis of the above facts the petitioner files this Public Interest Litigation Petition on the following amongst other grounds inter alia:

### **GROUNDS**

- A. Because the right to peaceful and safe environment is a basic Fundamental right to life. The basis of the purpose of this right granted to an individual is for protecting public interest and all attempts should be made by the State to create a peaceful and safe society to live in. In the present case the petitioner is only seeking 100 per cent ban on the use of black films in moving vehicles. The petitioner seeks the implementation of the use of glasses in moving vehicles with 100 per cent transparency in terms of sight.
- B. Because complete ban on the use of black films in vehicles in India shall act as a deterrent measures for execution of crimes such as rape, molestation, trafficking, abduction, robbery and theft. Whilst such ban will also render relief from the peril of terrorist attacks.

C. Because the Respondents dispute framing the Motor Vehicles Rules, 1989 has failed to apply the same either through the police or administration personnel and the checking of each vehicle plying on the roads from time to time, so as to take stern actions against the owners of vehicles having black films.

D. Because no mandatory regulations have been made for the use of luxometers as mandatory in order to examine the glasses of vehicles with black films plying on roads and also prescribing each state of the country to provide fund to the police authorities to procure sufficient numbers of luxometers.

E. Because in all the states of the country there is no requisite police force to control the law and order situation in a well-organized, resourceful and efficient manner for checking and controlling the use of black films in the vehicles.

F. Because the right to life of the people of this Country is seriously prejudiced if the terror attacks are not restricted by the way of use of

vehicles having black films as a facilitators of such attacks.

G. Because inaction on the part of the Respondents has violated right to life of the people at large guaranteed under Article 21 of the Indian Constitution and the right to life of an individual can be put to danger in the name of comfort and privacy for individual owners of the vehicles.

H. Because the right to life of people is to be given preference over the security in the garb of privacy, irrespective of the status of the individual.

I. Because the Respondents lack of seriousness has lead to such an alarming situation and needs judicial direction and control.

J. Because the existing law prescribes a 70 per cent visibility on the rear and front windscreens as well as 50 per cent visibility on side glasses of the vehicles and this permissible limit are not followed appropriately causing higher chances of probability of increasing the opaqueness of the glasses of vehicles by the owners.

K. Because the low police-population ration in India increases the vulnerability to the augmented probability of crime and transgression. The use of 100 per cent transparent glasses in vehicles instead of black filmed glasses shall curb the crime rate to a considerable extent despite the low population ratio of police in India.

L. Because the commissions of heinous crimes like rape, assault, molestation, abduction, kidnapping and trafficking day to day in motor vehicles cannot be controlled unless there is complete ban on the use of black films in vehicles as aforementioned.

M. Because the possibility of a terrorist attack and threat to internal security to the nation increases manifold only on account of use of black films in vehicles as aforementioned, therefore it requires serious consideration from this Hon'ble Court.

N. Because shirking of its duty by the Respondents frustrates the whole objective of the provision of Article 21 of the Constitution of India which is a fundamental right guaranteed under the Constitution of India.

O. Because each and every citizen of India has right to life and right to personal liberty envisaged under Article 21 of the Constitution of India. Each and every citizen of this country has the right to survive in a safe and peaceful environment.

P. That no other writ petition pertaining to the present issue is filed by the Petitioner either before this Hon'ble Court or any other Court.

### **PRAYER**

In view of the above it is most respectfully prayed that this Hon'ble Court graciously be pleased to:

1. Issue appropriate writ(s)/direction(s) towards use of glasses in vehicles having 100 % (per cent) VLT thereby having zilch percentage of black film on it.
2. Issue appropriate writ(s)/direction(s) to the Respondents to ensure proper implementation of the regulations/laws pertaining to use of black filmed glasses in vehicles.
3. Issue appropriate writ(s)/direction(s) to the Respondents to implement strict measures to examine all vehicles having black films.

4. Issue appropriate writ(s)/direction(s) to the Respondents to submit without delay the report of such examination to this Hon'ble Court.
5. Issue appropriate writ(s)/direction(s) to the Respondents to take stringent actions against the offenders using vehicles with black filmed glasses.
6. Issue appropriate writ(s)/direction(s) to the Respondents to initiate strict action directing all the states to deploy/include adequate police force in their respective police services.
7. Issue appropriate writ(s)/direction(s) to significantly concerned media agencies to get impleaded to this humble petition.
8. Pass such other and further orders as this Hon'ble Court may deem fit in the facts and circumstances of this case.