



Judgment

3 wp416.26.odt

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL WRIT PETITION NO.416 OF 2026

Kirtesh s/o Vikas Chaudhari,
aged about 23 years, occupation: student,
r/o type 4/3, NEERI Colony,
RPTS Road, Nagpur – 440 020.
E-mail - kirtesh11778@gmail.com
Mob.No.9834754410. **Petitioner.**

:: V E R S U S ::

Union of India, through the Secretary,
Ministry of Road Transport and
Highways, Transport Bhavan, 1, Parliament
Street, New Delhi – 110001. **Respondent.**

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Petitioner in-person.

Shri Kartik Shukul, DSGI assisted by Shri Chirag Batra, Adv.
for the Respondent.

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CORAM : URMILA JOSHI-PHALKE & NIVEDITA P MEHTA, JJ.
DATE : 29/06/2026

JUDGMENT : (Per : Urmila Joshi-Phalke)

1. Heard. **Rule.** Rule made returnable forthwith. Heard
finally by consent of parties.

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2. The petitioner in-person challenges Proviso to Section 129 of the Motor Vehicles Act, 1988 (the MV Act) on the ground that it violates Article 14 of the Constitution of India.

3. As per contention of the petitioner, Section 129 of the MV Act states that, “every person driving or riding (otherwise than in a side car, on a motor cycle of any class or description) shall, while in a public place, wear protective headgear conforming to the standards of Bureau of Indian Standards.”

The said Proviso shall not apply to a person who is a Sikh. It violates fundamental rights as the said Proviso is arbitrary classifying and exempting Sikh Community.

It is contended that the Government is doing class legislation by denying equal protection of laws and making certain people offender, which is not supported by any provisions of the Constitution of India. Equality before the law ensures no special privilege to any person or class. When all people in India are being governed by the Rule of Law and have equal protection of law, such classification is not justified

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and, therefore, Sections 129 and 194(d) of the MV Act be declared as unconstitutional being inconsistent with Article 14 of the Constitution.

4. In affidavit filed by the Union of India, while resisting contentions of the petitioner, it is stated that since the MV Act provides for exemption in respect of Sikh Community, it is not violative of Article 14 of the Constitution. It is only a reasonable classification and, therefore, the writ petition deserves to be dismissed.

5. The petitioner reiterates the said contentions and submitted that the Proviso to Section 129 of the MV Act is violative of fundamental rights under Article 14 of the Constitution. The MV Act is enacted which makes it compulsory to wear protective headgear (helmet) of such qualities as to reduce head injuries to riders of two-wheeler. The Proviso violates Article 14 of the Constitution and, therefore, it be declared violative of fundamental rights under Article 14 of the Constitution.



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6. Learned DSGI for the respondent vehemently submitted that though Article 14 of the Constitution guarantees “equality before the law”, it permits a reasonable classification meaning thereby the Government can make distinct classes for different groups if there is a valid or logical basis and public purpose.

He has also invited our attention towards the decision of this court at Goa Bench in the case of **Girish Uskaikar vs. Chief Secretary and anr, reported in 2001 4 Bom CR 122** wherein this issue was considered and submitted that exemption given to Sikh Community is not on the basis of caste or creed or religion. However, members of the Sikh Community wear turban, which serves object of provision and, therefore, the petition deserves to be dismissed.

7. This petition under Article 226 of the Constitution is filed seeking directions to declare Proviso to Section 129 of the MV Act exempting the Sikh Community from wearing



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helmet. Section 129 of the MV Act, for reference, is reproduced, as under:

“129. Wearing of protective headgear.-- Every person, above four years of age, driving or riding or being carried on a motorcycle of any class or description shall, while in a public place, wear protective headgear conforming to such standards as may be prescribed by the Central Government:

Provided that the provisions of this section shall not apply to a person who is a Sikh, if, while driving or riding on the motorcycle, in a public place, he is wearing a turban:

Provided further that the Central Government may by rules provide for measures for the safety of children below four years of age riding or being carried on a motorcycle.

Explanation.-- "Protective headgear" means a helmet which,--

(a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motorcycle a degree of protection from injury in the event of an accident; and

(b) is securely fastened to the head of the wearer by means of straps or other fastenings provided on the headgear.”



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8. Section 129 of the MV Act is included in Chapter VIII under the heading of “Control of Traffic” of the MV Act.

9. Section 138 of the MV Act deals powers of State Government for the purpose of carrying into effect provisions thereof.

10. Grant of exemption under Proviso to Section 129 of the MV Act cannot be said to be contrary in any way or undermining substantive part of Section 129. The exception carved out in favour of Sikh wearing a turban is not in the substantive part of Section 129 but in the first proviso thereto. The First Proviso, though uses the words, “a person who is a Sikh”, but the said words are followed by words if he is Sikh and which is indicative of reference therein being to a male only. Sikh men who are generally known to wear a turban.

11. The contention raised by the petitioner in respect of violation of Article 14 of the Constitution is also misconceived. Article 14 of the Constitution prohibits class legislation and not reasonable classification for the purposes of legislation. Article

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14 of the Constitution guarantees equality before the law and prohibits unreasonable discrimination. However, it permits “reasonable classification” meaning thereby the Government can make distinct class for different groups if there is a valid and logical basis and the public purpose. Permissible classification essentially depends upon two conditions, namely, (1) that the classification must be founded on a intelligible differentia which distinguishes persons or things that are grouped together from the others left out of the group and (ii) that the differentia must have a rational relation to the object to be achieved by the statute in question.

12. In the instant case, exemption given to Sikhs is not on the basis of caste or creed or religion. The statistical data in respect of accidents involving two-wheelers and deaths caused due to head injuries is rising day by day. The provisions are implemented in the interests of the society and to protect lives of people. In the interest of the society, Section 129 of the MV Act has made compulsory use of protective headgear/helmet by rider and pillion rider of two-wheeler motorcycles. The
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similar Rules are enacted at Delhi as well as at Andhra Pradesh.

13. The Hon'ble Apex Court in the case of **Ajay Canu vs. Union of India and ors, reported in 1988 AIR 2027** held that the Rule is not violative of any fundamental rights. Restriction, if any, is reasonable and in the interest of general public. Similarly, the Delhi High Court in the case of **Pt.Parmanand Katara vs. Union of India and anr, reported in A.I.R. Delhi 200**, directed the Commissioner of Police to ensure compliance of provisions of Sections 128 and 129 of the MV Act.

14. The Delhi High Court in the case of **Jamshed Ansari vs. The State, Government of NCT of Delhi and anr, reported in Writ Petition No.2825/2014** held that Section 129 of the MV Act is not violative of Article 14 of the Constitution.

The Delhi High Court, in paragraph No.28, observes as follows:

“28. Article 14 forbids class legislation. It is designed to prevent any person or class of persons from being
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singled out as a special subject for discrimination and hostile legislation. It however does not take from the power to classify. It does not forbid a reasonable classification - for the purposes of legislation, provided that classification is founded on intelligible differentia and that differentia has a rational relation to the object of the statute. In **Moti Das vs. S.P.Sahi, The Special Officer In- charge of Hindu Religion Trusts, reported in AIR 1959 SC 942**, it was held that classification may be based on religion. In that case, it was held that exclusion of Sikh Religious Trusts from the application of Bihar Hindu Religious Trusts Act, 1950 did not offend Article 14 as the organization of Sikh Religious Trusts was essentially different from the organization of Hindu Religious Trusts and the legislature was of the opinion that the Sikh Religious Trusts did not require the protection which the Hindu Religious Trusts did. Applying the same analogy, we are of the opinion that the Government in exercise of its power under the second proviso to Section 129 was entitled to determine which religious community cannot be compelled to wear helmets. The legislature and the government are not debarred from recognizing the existence of different religious laws prevailing in the

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country. Even if the persons belonging to two different religions have the same practice / taboo, the legislature and the government are entitled to determine, as to persons belonging to which religion are ripe for social reform and in choosing them for the reform and therefrom it cannot be said that the Parliament/Government is discriminating. Article 25(2) of the Constitution prescribes that the freedom to profess, practice and propagate religion guaranteed by Article 25(1) is subject to the making of laws providing for social welfare and reform. An illuminating discussion on the subject is to be found in the judgment of Chenappa Reddy J. speaking for the Full Bench of the Andhra Pradesh High Court in **Gogireddy Sambireddy vs. Gogireddy Jayamma, AIR 1972 AP 156**, while dealing with the challenge, to Section 494 I.P.C. read with Sections 11 and 17 of the Hindu Marriage Act making bigamy an offence, on the ground of the same being violative of Article 15(1) of the Constitution for the reason of exposing Hindus and not Muslims thereto. It was held that though it is true that the Republic of India as established by the Constitution is secular in character but that did not mean that Parliament and legislature are debarred from recognizing the existence of



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different systems of personal law prevailing in the country.”

15. Thus, controversy, therefore, is no more *res integra* and is concluded by the decisions of the Hon’ble Apex Court as well as the Delhi High Court and, therefore, Section 129 of the MV Act cannot be said to be violative of any of fundamental rights guaranteed under the Constitution of India.

16. In this view of the matter, the petition, suffers from lack of merits and needs to be dismissed and the the same is **dismissed**.

Petition stands **disposed of**. Rule is discharged.

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