

जावीद अहमद

आई०पी०एस०



पुलिस महानिदेशक,

उत्तर प्रदेश

1 तिलक मार्ग, लखनऊ।

दिनांक: लखनऊ: जून 21 2016

विषय:- मार्ग दुर्घटना में घायल व्यक्तियों की सहायता करने वाले नेक व्यक्तियों (Good Samaritans) को परेशानियों से बचाने एवं उचित सम्मान दिलाने के सम्बन्ध में मा० उच्चतम न्यायालय द्वारा "सेव लाइफ फाउन्डेशन (Save Life Foundation)" व अन्य बनाम भारत सरकार व अन्य के मामले में पारित निर्णय के अनुपालन में सड़क परिवहन व राजमार्ग मंत्रालय भारत सरकार द्वारा जारी अधिसूचना एवं मानक संचालन प्रक्रिया (SOP) के अनुपालन कराये जाने विषयक।

प्रिय महोदय,

कृपया विदित हो कि मार्ग दुर्घटनाओं में घायल व्यक्तियों को तत्काल अस्पताल पहुँचाने से अनेक गम्भीर रूप से घायल व्यक्तियों की जान बचायी जा सकती है। परन्तु प्रायः वहाँ मौजूद आम नागरिकों तथा अन्य गुजरने वाले राहगीरों द्वारा सड़क दुर्घटना में घायल व्यक्तियों की मदद पहुँचाने से बचा जाता है, ताकि उन्हें बाद में थानों पर पुलिस की पूछताछ एवं अन्य परेशानियों का सामना न करना पड़े। वस्तुतः दुर्घटनाओं में घायल व्यक्तियों की सहायता करने वाले नेक व्यक्तियों को वर्तमान में प्रचलित पुलिस एवं विधिक प्रक्रियाओं के कारण परेशानियों का सामना करना पड़ता है एवं उन्हें बार-बार पुलिस थानों एवं न्यायालयों के चक्कर लगाने पड़ते हैं। इन नेक व्यक्तियों की परेशानियों को देखकर अन्य व्यक्ति भी भविष्य में इस तरह की सहायता किसी घायल व्यक्ति को देने से कतराते हैं। फलस्वरूप अनेक गम्भीर रूप से घायल व्यक्तियों की जान तत्काल चिकित्सीय सुविधा न मिलने के कारण नहीं बच पाती है। अतः ऐसी विधि-व्यवस्था लागू करने की जरूरत है, जिसमें कि दुर्घटना में घायल व्यक्तियों को सहायता पहुँचाने वाले नेक व्यक्तियों के हितों की रक्षा हो सके एवं उन्हें पुलिस थानों, अस्पतालों एवं न्यायालयों के चक्कर एवं अन्य परेशानियों से बचाया जा सके।

2. इसी आशय से Save Life Foundation द्वारा मा० उच्चतम न्यायालय में योजित रिट पिटीशन (Civil) No. 235 of 2012 बनाम भारत सरकार एवं अन्य में दुर्घटना में घायल व्यक्तियों की मदद करने वाले नेक व्यक्तियों के हितों की रक्षा करने के उद्देश्य से विधिक फ्रेम वर्क (Frame Work) तैयार कराने की मांग की गयी थी। इस रिट याचिका में मा० उच्चतम न्यायालय द्वारा दिये गये आदेश के अनुपालन में Ministry of Road Transport & Highways द्वारा दिनांक: 12.05.2015 को एक अधिसूचना जारी की गयी है, जिसमें कि दुर्घटना में घायल व्यक्तियों की मदद करने वाले नेक व्यक्तियों के हितों की रक्षा हेतु आवश्यक दिशा निर्देश दिये गये हैं। इसी अधिसूचना के प्रस्तर-1(7) एवं 1(8) में राज्य सरकारों से यह अपेक्षा की गयी थी कि वह नेक व्यक्तियों द्वारा स्वेच्छा से दुर्घटना का गवाह बनने की स्थिति में उनसे पूछताछ करने इत्यादि हेतु मानक संचालन प्रक्रिया (SOP) तैयार की जाये। भारत सरकार के सड़क परिवहन एवं राजमार्ग मंत्रालय द्वारा दूसरी एक अधिसूचना दिनांक 21.01.2016 को जारी कर इसी क्रम में एक मानक संचालन प्रक्रिया (SOP) भी जारी की गयी है। मा० उच्चतम न्यायालय के द्वारा दिये गये आदेशों के क्रम में Ministry of Road Transport & Highways द्वारा जारी इस अधिसूचना एवं मानक संचालन प्रक्रिया (SOP) को

मा0 उच्चतम न्यायालय ने अपने आदेश दिनांक: 30.03.2016 द्वारा स्वीकार करते हुए यह आदेशित किया गया है कि जब तक इस सम्बन्ध में सम्बन्धित विधायिका द्वारा उचित कानून नहीं पारित किया जाता है, तब तक इस अधिसूचना एवं मानक संचालन प्रक्रिया (SOP) का अनुपालन प्रत्येक राज्यों द्वारा किया जायेगा। सर्वोच्च न्यायालय द्वारा यह भी निर्देश दिये गये हैं कि इस व्यवस्था के सम्बन्ध में व्यापक प्रचार-प्रसार किया जाये ताकि आम नागरिक को इसकी जानकारी हो सके एवं ज्यादा से ज्यादा नैक व्यक्ति दुर्घटना में घायल व्यक्तियों की मदद के लिए प्रेरित हों।

3. अतः मा0 उच्चतम न्यायालय द्वारा जारी उक्त आदेश की प्रति, सड़क परिवहन एवं राजमार्ग मंत्रालय द्वारा दिनांक 12.05.2015 को जारी अधिसूचना एवं दिनांक 21.01.2016 को जारी मानक संचालन प्रक्रिया (SOP) की छायाप्रतियां संलग्नकर इस आशय से प्रेषित की जा रही हैं कि आप स्वयं इनका भली-भांति अध्ययन कर लें एवं मासिक अपराध समीक्षा गोष्ठी में अपने अधीनस्थों को इस सम्बन्ध में अवगत करायें तथा इसका अनुपालन कड़ाई से सुनिश्चित करायें। उक्त निर्देशों का इलेक्ट्रॉनिक मीडिया, प्रिंट मीडिया तथा अन्य सम्भव संचार साधनों द्वारा भरपूर प्रचार-प्रसार करायें तथा ऐसे नैक व्यक्तियों को यथासम्भव नियमानुसार पुरस्कृत एवं सम्मानित कराने का भी प्रयास करें, ताकि समाज के अधिकाधिक व्यक्ति निश्चिन्त और भयमुक्त होकर मार्ग दुर्घटना में घायल व्यक्तियों की मदद कर सकें एवं मानव जीवन की रक्षा में महत्वपूर्ण एवं सक्रिय भूमिका निभा सकें।

संलग्नक:- यथोपरि

प्रवदीय  
(21-6-16) b.  
(जावीद अहमद)

समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक,  
प्रभारी जनपद,  
उत्तर प्रदेश।

प्रतिलिपि-निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- 1 पुलिस महानिदेशक, अभियोजन, उ0प्र0, लखनऊ।
- 2 अपर पुलिस महानिदेशक, कानून व्यवस्था, उ0प्र0, लखनऊ।
- 3 अपर पुलिस महानिदेशक, रेलवेज, उ0प्र0, लखनऊ।
- 4 समस्त जोनल पुलिस महानिरीक्षक, उ0प्र0।
- 5 समस्त परिक्षेत्रीय पुलिस उपमहानिरीक्षक, उ0प्र0।
- 6 समस्त पुलिस उपमहानिरीक्षक, रेलवेज, उ0प्र0

**REPORTABLE**

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

**WRIT PETITION (C) NO.235 OF 2012**

Savelife Foundation &amp; Anr.

... Petitioners

Vs.

Union of India &amp; Anr.

... Respondents

**JUDGMENT****ARUN MISHRA, J.**

1. The petition has been filed under Article 32 of the Constitution of India in public interest for the development of supportive legal framework to protect Samaritans i.e. bystanders and passers-by who render the help to the victims of road accidents. These individuals can play a significant role in order to save lives of the victims by either immediately rushing them to the hospital or providing immediate life saving first aid.

2. The petitioner is 'SaveLife Foundation', a non-profit, non-governmental organization registered as a Public Charitable Trust and had been established in 2008. The petitioner aims to create a unique network of medical responders to come to the victim's aid. The petitioner has also drafted recommendations to address the critical deficiencies in the Motor Vehicles Act, and other laws governing road safety.

3. The Department of Road Transport is responsible for framing motor vehicle legislation and evolving road safety standards in India. The WHO in its 'World Report on Road Traffic Injury Prevention, 2004' has projected that by 2020, road accidents will be one of the biggest killers in India. It also emphasized that in low income countries, the most common desisting factor restraining the public from coming forward to help victims, is the apparent fear of being involved in police cases. There is need to build confidence amongst the public to help road accident victims. Bystanders should not be insisted to divulge their personal particulars or detained in the hospital for interrogation. People are hesitant to render immediate help to the road accident victims. The victims lay wounded on the road for some time till the arrival of police. Delay rendering medical help in such cases sometimes is fatal. Good Samaritans have the fear of legal consequences, involvement in litigation and repeated visits to police station. There is urgent need to tackle these issues. There is need to establish legal framework so that Good Samaritan is empowered to act without any fear of adverse consequences or harassment. Save life must be the top priority.

4. Several countries have enacted such laws. In England and Wales, the Parliament has enacted the *Social Action, Responsibility and Heroism Act 2015* which provides for certain factors to be considered by the Court while hearing an action for negligence or breach of duty. Section 2 of the Act provides that the Court must consider whether the respondent was acting for the benefit of

society or any of its members. Section 5 of the Act further provides that the Court must consider whether the respondent was acting heroically by intervening in an emergency to assist an individual in danger. In Ireland, section 51D of the *Civil Law (Miscellaneous Provisions) Act 2011* provides that a good Samaritan will not be liable in negligence for any act done in emergency to help person in serious and imminent danger. In Australia, protection to good Samaritan is provided in several states. In New South Wales and Victoria, for instance, a good Samaritan is protected from personal civil liability with respect to anything done in state of emergency or accident by virtue of *Civil Liability Act 2002* and *Wrongs Act 1958* respectively. In Canada, various states like Ontario, Alberta and British Columbia offer protection to good Samaritans. In Ontario, the *Good Samaritan Act 2001*, by Section 2 (1), provides that except for gross negligence, a person is not liable for damages resulting from his acts during aid in emergency. Similar protection is provided in states of Alberta, British Columbia and Nova Scotia by *Emergency Medical Aid Act*, *Good Samaritan Act* and *Volunteer Services Act* respectively. Similar protection to good Samaritans is to be found in different states' laws in the USA. States of Alabama, Alaska, Arizona, Arkansas, California and New York, to name a few, provide that if a person lends emergency assistance or service to another person in good faith, he is not liable in civil damages with respect to his act or omission.

5. Accident cases require fastest care and rescue which could be provided

by those closest to the scene of the accident. Bystanders clear support is essential to enhance the chances of survival of victim in the 'Golden Hour' i.e. the first hour of the injury. As per the WHO India Recommendations, 50% of the victims die in the first 15 minutes due to serious cardiovascular or nervous system injuries and the rest can be saved through by providing basic life support during the 'Golden Hour'. Right to life is enshrined under Article 21 which includes right to safety of persons while travelling on the road and the immediate medical assistance as a necessary corollary is required to be provided and also adequate legal protection and prevention from harassment to good Samaritans.

6. In letter dated 9.9.2004, Joint Secretary, Department of Road Transport and Highways addressed to all the State Governments and Union Territories, it has been highlighted that the WHO in its World Report on Road Traffic Injury Prevention, 2004 has pointed out that "while in high-income countries, there is a reasonably well-organised ambulance based rescue system, in middle and low-income countries, assistance by bystanders is most common. In our country, while organizing of trauma care apart of intervention is also required, there is another factor, namely, relative ignorance on part of public to come forward to help the road crash victims, for apparent fear that they might be involved in "police cases." The letter further states that Research shows that a number of the accident victims can be saved if they receive immediate medical attention." The letter also admits that due to fear of harassment people do not

always come forward to attend them.”

The Department of Road Transport and Highways had also sent letter dated 19.2.2004 to the States and Union Territories enclosing a Circular issued by the police authorities in Delhi in order to build confidence in the public for helping road accident victims. The Circular stated that it is likely that the person who brings the injured to the hospital would hesitate to provide his particulars, and in such a case, it should not be insisted upon. Furthermore, it was also stated therein that the escorters or the person who bring the victims to the hospital should, under no circumstances, be detained in the hospital for interrogation. It was suggested in the said letter that action on similar lines may be considered by the States and UTs.

7. The people have the notion that touching the body could lend them liable for police interrogation. Passerby plays safe and chose to wait for the police to arrive whereas injured gradually bleeds to death. People are reluctant to come forward for help despite, desperate attempts to get help from passerby, by and large they turn blind eyes to the person in distress. Sometimes those who help are rebuked due to ignorance by the others on touching the scene. In the case of a convoy even when there are several vehicles in the convoy, people wait for the ambulance to arrive and also for the concerned police help. There are several desisting factors which are required to be taken care of such as fear of legal consequences if once action is ineffective or harmful to victim, fear of involvement in subsequent prolonged investigation and visit to the

police station. There is need to evolve the system by promptly providing effective care system with certain ethical and legal principles. It is absolutely necessary that Good Samaritans feel empowered to act without fear of adverse consequence. There is need to provide certain incentives to Good Samaritans. There is also dire need to enact a Good Samaritan Law in the country since there is a felt need of legislation for affording protection to Good Samaritans.

8. While issuing notice on 17.8.2012, this Court has observed:  
“It remains undisputed before us that it is not insufficiency of law but it is implementation of law which is a matter of concern. Different guidelines including guidelines for ambulance Code, emergency care and appropriate directions to the hospitals on the highways for handling the accident trauma patients, as a top priority are stated to have been issued.

Learned counsel appearing for the parties submit that an expert committee would need to be constituted to monitor the various directions issued for their due compliance.

Learned counsel for the parties even propose to make joint suggestions in this regard after consulting the relevant Ministries and NHA. The counsel appearing for the petitioner has vehemently argued that the joint suggestions now to be filed should also consider the directions and safeguards that could be provided to the passers-by or informers of the accident. This will even help the expeditious disposal of criminal cases. Let this aspect be also examined by the learned counsel appearing for the parties who are to submit the joint suggestions.”

9. This Court vide order dated 11.12.2012 has constituted a Committee consisting of 8 members and to submit the suggestions before this Court. The members of the said Committee are as follows:

1. Additional Secretary of Ministry of Home Affairs;



2. Secretary and or his nominee, Ministry of Health and Family Welfare to be nominated in consultation with Directorate General Health Services;
3. Secretary and or his nominee from Ministry of Law and Justice;
4. Jt. Commissioner (Traffic) – Delhi Police;
5. Chief of the AIIMS Trauma Centre;
6. The Director General or his nominee not below the rank of the Additional Director General of the Protection Road Organizations;
7. Save Life foundation representative;
8. Mr. M.P. Tiwari or his nominee from any of the NAOS John Ambulance representative.

The scope of reference of the Committee inter alia included following aspects with which we are concerned in the instant matter;

- “(ix) Identify the root causes for fear of harassment and legal hassles in general public regarding helping injured victims.
- (x) Deliberate and develop a set of guidelines for protecting Good Samaritans from police harassment and legal hassles. The guidelines will aim to address the root causes for fear of harassment and legal hassles in general public regarding helping injured victims. These guidelines will also serve as a foundation for further legislative work in the area of protecting Good Samaritans.”

The Committee was required to submit report to this Court within three months. On 14.8.2014, this Court passed an order to have the views of concerned ministries of Union of India. This Court observed in order dated 24.9.2014 that in this petition the only issue which is required to be addressed is with regard to ‘Good Samaritans’. All other issues that arise in the writ petition have already been referred to the

Committee headed by Mr. Justice K.S. Radhakrishnan, former Judge of this Court.

10. This Court on 29.10.2014 has passed an order in view of affidavit filed on behalf of Ministry of Road Transport and Highways wherein it has been stated that the recommendation made in the Skandan Committee's report regarding protection of good Samaritans has been accepted by the said ministry and also by Ministry of Law & Justice. This Court directed both the ministries in consultation with each other to issue necessary directions with regard to protection of good Samaritans until appropriate legislation is made by the Union Legislature.

On 7.8.2015, this Court has noted that notification dated 12.5.2015 laying down 'Good Samaritan Guidelines' has been issued by the Ministry of Road Transport and Highways, Government of India. Suggestions were invited so as to give more teeth to the guidelines.

On 27.11.2015, this Court was informed by the learned Additional Solicitor General that the suggestions given have been incorporated in the form of Standard Operating Procedure which has been issued as an Office Memorandum. The views of Ministry of Health and Family Welfare, Ministry of Home Affairs and Ministry of Law and Justice are awaited. This Court issued a direction to look into the possibility of giving statutory status to the Standard Operating Procedure either in the form of a notification or regulations or guidelines.

11. The Ministry of Road Transport and Highways has issued a notification containing guidelines on 12.5.2015 published in the Gazette of India para 1 of Section 1 of the Notification dated 12.5.2015 for protection of good Samaritans and a further Notification has been issued on 21.1.2016 in accordance with para 1(7) and 1(8) of the guidelines dated 12.5.2015 which required standard operating procedures to be framed and issued for examination of good Samaritans by the police or during trial. It has been mentioned in the affidavit filed by Ministry of Road Transport and Highways, Government of India that in the absence of any statutory backing, it is felt that it will be difficult to enforce these guidelines issued on 12.5.2015 and standard operating procedures as notified on 21.1.2016. It has also been mentioned that the notified guidelines in relation to protection of a bystander or good Samaritan are without prejudice to the liability of the driver of a motor vehicle involved in the road accident, as specified under section 134 of the Motor Vehicles Act, 1988.

Notification dated 12.5.2015 issued by the Ministry of Road Transport and Highways containing guidelines for protection of good Samaritans to be in force till appropriate legislation is framed by Union Legislature, is extracted hereunder:

“No.25035/101/2014-RS.—Whereas the Hon'ble Supreme Court in the case of Savelife Foundation and another V/s. Union Of India and another in Writ

Petition (Civil) No. 235 of 2012 vide its order dated 29th October, 2014, interalia, directed the Central Government to issue necessary directions with regard to the protection of Good Samaritans until appropriate legislation is made by the Union Legislature;

And whereas, the Central Government considers it necessary to protect the Good Samaritans from harassment on the actions being taken by them to save the life of the road accident victims and, therefore, the Central Government hereby issues the following guidelines to be followed by hospitals, police and all other authorities for the protection of Good Samaritans, namely:-

1. (1) A bystander or good Samaritan including an eyewitness of a road accident may take an injured person to the nearest hospital, and the bystander or good Samaritan should be allowed to leave immediately except after furnishing address by the eyewitness only and no question shall be asked to such bystander or good Samaritan.

(2) The bystander or good Samaritan shall be suitably rewarded or compensated to encourage other citizens to come forward to help the road accident victims by the authorities in the manner as may be specified by the State Governments.

(3) The bystander or good Samaritan shall not be liable for any civil and criminal liability.

(4) A bystander or good Samaritan, who makes a phone call to inform the police or emergency services for the person lying injured on the road, shall not be compelled to reveal his name and personal details on the phone or in person.

(5) The disclosure of personal information, such as name and contact details of the good Samaritan shall be made voluntary and optional including in the Medico Legal Case (MLC) Form provided by hospitals.

(6) The disciplinary or departmental action shall be initiated by the Government concerned against public officials who coerce or intimidate a bystander or good Samaritan for revealing his name or personal details.

(7) In case a bystander or good Samaritan, who has voluntarily stated that he is also an eye-witness to the accident and is required to be examined for the purposes of investigation by the police or during the trial, such bystander or good Samaritan shall be examined on a single occasion and the State Government shall develop standard operating procedures to ensure that bystander or good Samaritan is not harassed or intimidated.

(8) The methods of examination may either be by way of a commission under section 284, of the Code of Criminal Procedure 1973 or formally on affidavit as per section 296, of the said Code and Standard Operating Procedures shall be developed within a period of thirty days from the date when this notification is issued.

(9) Video conferencing may be used extensively during examination of bystander or good Samaritan including the persons referred to in guideline (1) above, who are eye witnesses in order to prevent harassment and inconvenience to good Samaritans.

(10) The Ministry of Health and Family Welfare shall issue guidelines stating that all registered public and private hospitals are not to detain bystander or good Samaritan or demand payment for registration and admission costs, unless the good Samaritan is a family member or relative of the injured and the injured is to be treated immediately in pursuance of the order of the Hon'ble Supreme Court in Pt. Parmanand Katara vs Union of India & Ors [1989] 4 SCC 286.

(11) Lack of response by a doctor in an emergency situation pertaining to road accidents, where he is expected to provide care, shall constitute "Professional Misconduct", under Chapter 7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation, 2002 and disciplinary action shall be taken against such doctor under Chapter 8 of the said Regulations.

(12) All hospitals shall publish a charter in Hindi, English and the vernacular language of the State or Union territory at their entrance to the effect that they shall not detain bystander or good Samaritan or ask

depositing money from them for the treatment of a victim.

(13) In case a bystander or good Samaritan so desires, the hospital shall provide an acknowledgement to such good Samaritan, confirming that an injured person was brought to the hospital and the time and place of such occurrence and the acknowledgement may be prepared in a standard format by the State Government and disseminated to all hospitals in the State for incentivising the bystander or good Samaritan as deemed fit by the State Government.

(14) All public and private hospitals shall implement these guidelines immediately and in case of noncompliance or violation of these guidelines appropriate action shall be taken by the concerned authorities.

(15) A letter containing these guidelines shall be issued by the Central Government and the State Government to all Hospitals and Institutes under their respective jurisdiction, enclosing a Gazette copy of this notification and ensure compliance and the Ministry of Health and Family Welfare and Ministry of Road Transport and Highways shall publish advertisements in all national and one regional newspaper including electronic media informing the general public of these guidelines.

2. The above guidelines in relation to protection of bystander or good Samaritan are without prejudice to the liability of the driver of a motor vehicle in the road accident, as specified under section 134 of the Motor Vehicles Act, 1988 (59 of 1988).

Sd/- Jt. Secy.”

12. Para 1(7) and 1(8) of the guidelines dated 12.5.2015 required standard operating procedure to be framed for the examination of the good Samaritans. The Central Government, Ministry of Road Transport and Highways has issued notification on 21.1.2016 which is as under:

“No. RT-25035/101/2014-RS.—Whereas, the

Hon'ble Supreme Court in the case of Save Life Foundation and another Vs Union of India and another in Writ Petition (Civil) No. 235/2012 vide its order dated 29th October 2014, inter-alia, directed to issue necessary directions with regard to the protection of Good Samaritans until appropriate legislation is made by the Union Legislature;

And whereas, the Central Government published the guidelines in the Gazette of India, Extraordinary, Part I, Section I dated 12th May 2015 for protection of the Good Samaritans, i.e. a person who is a bystander or a passer-by, who chooses to assist an injured person or a person in distress on the road;

And whereas, as per para 1 (7) and (8) of the said guidelines dated 12th May, 2015, Standard Operating Procedures are to be framed for the examination of Good Samaritans by the Police or during trial;

And whereas, the Central Government considers it necessary to issue Standard Operating Procedure for the examination of Good Samaritans by the Police or during trial and here by issue the following standard operating procedure, namely:—

1. 1. The Good Samaritan shall be treated respectfully and without any discrimination on the grounds of gender, religion, nationality, caste or any other grounds.

2. Any person who makes a phone call to the Police control room or Police station to give information about any accidental injury or death, except an eyewitness may not reveal personal details such as full name, address, phone number etc.

3. Any Police official, on arrival at the scene, shall not compel the Good Samaritan to disclose his / her name, identity, address and other such details in the Record Form or Log Register.

4. Any Police official or any other person shall not force any Good Samaritan who helps an injured person to become a witness in the matter. The option of becoming a witness in the matter shall solely rest with the Good Samaritan.

5. The concerned Police official(s) shall allow the Good Samaritan to leave after having informed the Police about an injured person on the road, and no

further questions shall be asked if the Good Samaritan does not desire to be a witness in the matter.

2. Examination of Good Samaritan by the Police

i. In case a Good Samaritan so chooses to be a witness, he shall be examined with utmost care and respect and without any discrimination on the grounds of gender, religion, nationality, caste or any other grounds.

ii. In case a Good Samaritan chooses to be a witness, his examination by the investigating officer shall, as far as possible, be conducted at a time and place of his convenience such as his place of residence or business, and the investigation officer shall be dressed in plain clothes, unless the Good Samaritan chooses to visit the police station.

iii. Where the examination of the Good Samaritan is not possible to be conducted at a time and place of his convenience and the Good Samaritan is required by the Investigation Officer to visit the police station, the reasons for the same shall be recorded by such officer in writing.

iv. In case a Good Samaritan so chooses to visit the Police Station, he shall be examined in a single examination in a reasonable and time-bound manner, without causing any undue delay.

v. In case the Good Samaritan speaks a language other than the language of the Investigating Officer or the local language of the respective jurisdiction, the Investigating Officer shall arrange for an interpreter.

vi. Where a Good Samaritan declares himself to be an eye-witness, he shall be allowed to give his evidence on affidavit, in accordance with section 296 of the Code of Criminal Procedure, 1973 (2 of 1974) which refers to Evidence in Formal Character on Affidavit.

vii. The complete statement or affidavit of such Good Samaritan shall be recorded by the Police official while conducting the investigation in a single examination.

viii. In case the attendance of the Good Samaritan cannot be procured without delay, expense or



inconvenience which, under the circumstances of the case, would be unreasonable, or his examination is unable to take place at a time and place of his convenience, the Court of Magistrate may appoint a commission for the examination of the Good Samaritan in accordance with section 284 of the Code of Criminal Procedure, 1973 (2 of 1974) on an application by the concerned.

3. The Superintendent of Police or Deputy Commissioner of Police or any other Police official of corresponding seniority heading the Police force of a District, as the case may be, shall be responsible to ensure that all the above mentioned procedures are implemented throughout their respective jurisdictions with immediate effect.

Sd/- Jt. Secretary.”

Prayer has been made on the part of the Ministry of Road Transport and Highways of Government of India that the guidelines notified on 12.5.2015 and the standard operating procedure notified on 21.1.2016 may be declared to be enforceable by this Court so that it is binding on all the States and Union Territories until the Union Government enacts a law to this effect.

13. In *Lakshmi Kant Pandey v. Union of India* (1984) 2 SCC 244 in the matter of inter-country adoption and so as to prevent malpractices and trafficking of children under the guise of adoption, this Court has laid down certain principles and norms to be followed in the cases of such adoption in detail, as there was absence of statutory provisions with respect to inter-country adoptions.

14. In *D.K. Basu v. State of W.B.* (1997) 1 SCC 416, this Court considering the fact that the custodial violence, torture, rape, death in

police custody/lock-up infringes Article 21 as well as basic human rights and strikes a blow at the rule of law, directions have been issued for compliance by Police personnel while arresting or detaining any person as preventive measures in addition to constitutional and statutory safeguards and previous directions of this Court.

15. In *Vishaka and Ors. v. State of Rajasthan & Ors.* (1997) 6 SCC

241 considering the absence of enacted law to provide for effective enforcement of the basic rights to gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at workplaces, this Court has laid down guidelines and norms for due observance at all work places or institutions until the legislation is enacted for the purpose.

16. In *Vineet Narain & Ors. v. Union of India & Anr.* (1998) 1 SCC

226 this Court has referred to various decisions in which guidelines and directions have been issued in exercise of powers of this Court under Article 32 read with Article 142. The relevant portion is extracted hereunder :

“51. In exercise of the powers of this Court under Article 32 read with Article 142, guidelines and directions have been issued in a large number of cases and a brief reference to a few of them is sufficient. In *Erach Sam Kanga v. Union of India* [WP No.2632 of 1978 decided on 20.3.1979) the Constitution Bench laid down certain guidelines relating to the Emigration Act. In *Lakshmi Kant Pandey v. Union of India* (1984) 2 SCC 244 (*In re*,

*Foreign Adoption*), guidelines for adoption of minor children by foreigners were laid down. Similarly in *State of W.B. v. Sampat Lal* (1985) 1 SCC 317, *K. Veeraswami v. Union of India* (1991) 3 SCC 655, *Union Carbide Corpn. v. Union of India* (1991) 4 SCC 584, *Delhi Judicial Service Assn. v. State of Gujarat* (1991) 4 SCC 406 (*Nadiad case*), *Delhi Development Authority v. Skipper Construction Co. (P) Ltd.* (1996) 4 SCC 622 and *Dinesh Trivedi, M.P. v. Union of India* (1997) 4 SCC 306 guidelines were laid down having the effect of law, requiring rigid compliance. In *Supreme Court Advocates-on-Record Assn. v. Union of India* (1993) 4 SCC 441 (*Ind Judges case*) a nine-Judge Bench laid down guidelines and norms for the appointment and transfer of Judges which are being rigidly followed in the matter of appointments of High Court and Supreme Court Judges and transfer of High Court Judges. More recently in *Vishaka v. State of Rajasthan* (1997) 6 SCC 241 elaborate guidelines have been laid down for observance in workplaces relating to sexual harassment of working women. In *Vishaka* (supra) it was said: (SCC pp. 249-50, para 11)

“11. The obligation of this Court under Article 32 of the Constitution for the enforcement of these fundamental rights in the absence of legislation must be viewed along with the role of judiciary envisaged in the Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA region. These principles were accepted by the Chief Justices of Asia and the Pacific at Beijing in 1995 (\*) (*As amended at Manila, 28th August, 1997*) as those representing the minimum standards necessary to be observed in order to maintain the independence and effective functioning of the judiciary. The objectives of the judiciary mentioned in the Beijing Statement are:

“Objectives of the Judiciary:

10. The objectives and functions of the Judiciary include the following:

(a) to ensure that all persons are able to

live securely under the rule of law;  
 (b) to promote, within the proper limits of the judicial function, the observance and the attainment of human rights; and  
 (c) to administer the law impartially among persons and between persons and the State.”

Thus, an exercise of this kind by the court is now a well-settled practice which has taken firm roots in our constitutional jurisprudence. This exercise is essential to fill the void in the absence of suitable legislation to cover the field.

52. As pointed out in *Vishaka* (supra) it is the duty of the executive to fill the vacuum by executive orders because its field is coterminous with that of the legislature, and where there is inaction even by the executive, for whatever reason, the judiciary must step in, in exercise of its constitutional obligations under the aforesaid provisions to provide a solution till such time as the legislature acts to perform its role by enacting proper legislation to cover the field.”

17. In *Union of India v. Association for Democratic Reforms & Anr.* (2002) 5 SCC 294, the decisions in *Vineet Narain* (supra), *Vishaka* (supra) and other decisions have been followed and this Court has laid down the law that an exercise to fill the void in the absence of suitable legislation is now a well-settled practice which has taken firm roots in our constitutional jurisprudence. Similar is the decision in *Kalyan Chandra Sarkar v. Rajesh Ranjan alias Pappu Yadav & Anr.* (2005) 3 SCC 284. In *Common Cause v. Union of India* (2015) 7 SCC 1, law to the same effect has been reiterated thus :

“7. In the earlier order dated 23-4-2014 (2014) 6 SCC 552, this Court, after holding that reasonableness and fairness consistent with Article

14 of the Constitution would be the ultimate test of all State activities proceeded to hold that the deployment of public funds in any government activity which is not connected with a public purpose would justify judicial intervention. We would like to say something more.

8. Part IV of the Constitution is as much a guiding light for the Judicial organ of the State as the Executive and the Legislative arms, all three being integral parts of the "State" within the meaning of Article 12 of the Constitution. AIR 1967 SC 1, (1973) 4 SCC 225. A policy certainly cannot be axed for its alleged failure to comply with any of the provisions of Part IV. Neither can the courts charter a course, merely on the strength of the provisions of the said Part of the Constitution, if the effect thereof would be to lay down a policy. However, in a situation where the field is open and uncovered by any government policy, to guide and control everyday governmental action, surely, in the exercise of jurisdiction under Article 142 of the Constitution, parameters can be laid down by this Court consistent with the objects enumerated by any of the provisions of Part IV. Such an exercise would be naturally time-bound i.e. till the legislature or the executive, as the case may be, steps in to fulfil its constitutional role and authority by framing an appropriate policy."

18. In view of the aforesaid discussion, it is apparent that guidelines and directions can be issued by this Court including a command for compliance of guidelines and standard operating procedure issued by Government of India, Ministry of Road Transport and Highways, till such time as the legislature steps in to substitute them by proper legislation. This Court can issue such directions under Article 32 read with Article 142 to implement and enforce the guidelines which are necessary for protection of rights under Article 21 read with Article 14

of the Constitution of India so as to provide immediate help to the victims of the accident and at the same time to provide protection to Good Samaritans. The guidelines will have the force of law under Article 141. By virtue of Article 144, it is the duty of all authorities – judicial and civil – in the territory of India to act in aid of this Court by implementing them.

19. We have carefully gone through the notification dated 12.5.2015. However, as per the guidelines contained in para 13, the 'acknowledgement' if so desired by Good Samaritans, has to be issued as may be prescribed in a standard format by the State Government. In our opinion, till such time the format is prescribed, there should be no vacuum hence we direct that acknowledgement be issued on official letter-pad etc. and in the interregnum period, if so desired by Good Samaritan, mentioning the name of Samaritan, address, time, date, place of occurrence and confirming that the injured person was brought by the said Samaritan.

We have also gone through the notification dated 21.1.2016 with respect to the examination of Good Samaritan by the Police as contained in para 2(vii) which we modify and be read in the following manner :

“The affidavit of Good Samaritan if filed, shall be treated as complete statement by the Police official while conducting the investigation. In case statement is to be recorded, complete statement shall be recorded in a single examination.”

Remaining guidelines in the notifications dated 12.5.2015 and 21.1.2016 are approved and it is ordered that guidelines with aforesaid modifications made by us be complied with by the Union Territories and all the functionaries of the State Governments as law laid down by this Court under Article 32 read with Article 142 of the Constitution of India and the same be treated as binding as per the mandate of Article 141.

20. We also direct that the court should not normally insist on appearance of Good Samaritans as that causes delay, expenses and inconvenience. The concerned court should exercise the power to appoint the Commission for examination of Good Samaritans in accordance with the provisions contained in section 284 of the Code of Criminal Procedure, 1973 *suo motu* or on an application moved for that purpose, unless for the reasons to be recorded personal presence of good Samaritan in court is considered necessary.

21. Affidavits have been filed on behalf of State of Tripura and State of Orissa. They have issued the notification. However, the treatment shall not be less favourable than the one as provided in the aforesaid guidelines which are issued by the Ministry of Road Transport & Highways which have been made a part of this Order, and the guidelines issued by the state Governments in consonance thereof shall also be binding upon all concerned to be complied with scrupulously. However, it is clarified that guidelines in relation to protection of a Good

Samaritan are without prejudice to the liability of the driver of a motor vehicle involved in a road accident as specified under section 134 of the Motor Vehicles Act, 1988.

22. We record our appreciation for the efforts made in formulating guidelines by all concerned, the members of Committee, concerned Department, learned Solicitor General and positive attitude of the counsel for the other parties who have readily agreed that guidelines be approved and be enforced as binding till appropriate legislative provisions are made.

23. We also direct that the scheme framed by the Central Government and this order be widely published through electronic media and print media for the benefit of public so that public is made aware and that serves as impetus to good Samaritans to extend timely help and protection conferred upon them without incurring the risk of harassment.

24. In view of the aforesaid directions, the writ petition stands allowed. No order as to costs.

.....J.  
(V. Gopala Gowda)

New Delhi;  
March 30, 2016.

.....J.  
(Arun Mishra)





# भारत का राजपत्र

## The Gazette of India

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अधिसूचना

नई दिल्ली, 12 मई, 2015

सं. 25035/101/2014-आरएस.—जबकि माननीय सर्वोच्च न्यायालय ने 2012 की रिट याचिका (सिविल) संख्या 235 में सेवलाईफ फाउंडेशन और अन्य बनाम यूनियन ऑफ इंडिया और अन्य के मामले में अपने आदेश दिनांक 29 अक्टूबर, 2014 के तहत अन्य बातों के साथ-साथ केन्द्रीय सरकार को केन्द्रीय विधान मंडल द्वारा उचित विधि निर्माण किए जाने तक गुड सेमेरिटन के बचाव के संबंध में आवश्यक निर्देश जारी करने का निर्देश दिया है;

और जबकि केन्द्रीय सरकार, सड़क दुर्घटना पीड़ितों की जान बचाने के लिए उनके द्वारा की जा रही कार्रवाइयों के संबंध में गुड सेमेरिटन को उत्पीड़न से बचाव के लिए इसे आवश्यक समझती है तथा, इसलिए, केन्द्रीय सरकार, एतद्वारा गुड सेमेरिटन के बचाव के लिए अस्पतालों, पुलिस और अन्य सभी प्राधिकरणों को अनुपालन किए जाने हेतु निम्नलिखित दिशानिर्देश जारी करती है, अर्थात्:-

1. (1) किसी सड़क दुर्घटना के प्रत्यक्षदर्शी सहित कोई भी बाईस्टैंडर या गुड सेमेरिटन किसी घायल व्यक्ति को निकटतम अस्पताल में लेकर जा सकता है, तथा उस बाईस्टैंडर या गुड सेमेरिटन को तुरंत जाने की अनुमति दे दी जाएगी और उस बाईस्टैंडर या गुड सेमेरिटन से कोई प्रश्न नहीं पूछा जाएगा, सिवाय सिर्फ प्रत्यक्षदर्शी के, जिसे पता बताने के बाद जाने दिया जाएगा।
- (2) सड़क दुर्घटना पीड़ितों की मदद के लिए आगे आने हेतु अन्य नागरिकों को प्रोत्साहित करने के लिए राज्य सरकारों द्वारा यथा-विनिर्दिष्ट रूप में प्राधिकरणों द्वारा बाईस्टैंडर या गुड सेमेरिटन को उचित ईनाम या मुआवजा दिया जाएगा।
- (3) बाईस्टैंडर या गुड सेमेरिटन किसी सिविल तथा आपराधिक दायित्व के लिए उत्तरदायी नहीं होगा।
- (4) कोई बाईस्टैंडर या गुड सेमेरिटन जो सड़क पर घायल पड़े व्यक्ति के लिए पुलिस को सूचना देने अथवा आपातकालीन सेवाओं हेतु फोन कॉल करता है, उसे फोन पर अथवा व्यक्तिगत रूप से उपस्थित होकर अपना नाम और व्यक्तिगत विवरण देने के लिए बाध्य नहीं किया जाएगा।

- (5) गुड सेमेरिटन का नाम और संपर्क विवरण जैसी व्यक्तिगत सूचना को बताया जाता स्वैच्छिक तथा वैकल्पिक बनाया जाएगा। ऐसा अस्पतालों द्वारा उपलब्ध कराए गए मैडिको लीगल केस (एमएलसी) फार्म में भी किया जाएगा।
- (6) उन लोक अधिकारियों के विरुद्ध संबंधित सरकार द्वारा अनुशासनात्मक या विभागीय कार्रवाई की जाएगी जो किसी बाईस्टैंडर या गुड सेमेरिटन को अपना नाम अथवा व्यक्तिगत विवरण देने के लिए वाध्य करेंगे अथवा धमकाएंगे।
- (7) यदि कोई बाईस्टैंडर या गुड सेमेरिटन जिसने स्वैच्छिक रूप से उल्लेख किया है कि वह उस दुर्घटना का प्रत्यक्षदर्शी भी है तथा पुलिस द्वारा अथवा मुकदमे के दौरान जांच-पड़ताल के प्रयोजनों के लिए उसका जांच किया जाना अपेक्षित है तो उस बाईस्टैंडर या गुड सेमेरिटन से एक ही बार पूछताछ की जाएगी तथा राज्य सरकार द्वारा मानक संचालन प्रक्रिया विकसित की जाएगी ताकि यह सुनिश्चित किया जा सके कि किसी बाईस्टैंडर या गुड सेमेरिटन को उत्पीड़ित अथवा धमकाया ना जाए।
- (8) जांच की विधियां, अपराधिक प्रक्रिया संहिता 1973 की धारा 284 के अंतर्गत किसी आयोग द्वारा, अथवा कथित संहिता की धारा 296 के अनुसार औपचारिक तौर से शपथ-पत्र के द्वारा हो सकती है तथा इस अधिसूचना के जारी होने की तिथि से 30 दिन की अवधि के भीतर मानक संचालन प्रक्रिया विकसित की जाएगी।
- (9) गुड सेमेरिटन को उत्पीड़न से बचाने अथवा असुविधा से दूर रखने के लिए, बाईस्टैंडर या गुड सेमेरिटन एवं उपर्युक्त (1) दिशा-निर्देश में संदर्भित व्यक्ति जो प्रत्यक्षदर्शी हैं, से पूछताछ के दौरान विडियो कॉन्फ्रेंसिंग का विस्तृत रूप से उपयोग किया जाएगा।
- (10) स्वास्थ्य एवं परिवार कल्याण मंत्रालय दिशा-निर्देश जारी करेगी जिसमें यह उल्लेख किया जाएगा कि कोई भी पंजीकृत सार्वजनिक और निजी अस्पताल बाईस्टैंडर या गुड सेमेरिटन को न रोके अथवा पंजीकरण और भर्ती लागतों के लिए भुगतान की मांग न करें, जब तक कि गुड सेमेरिटन घायल व्यक्ति के परिवार का सदस्य अथवा सगा-संबंधी न हो तथा पं. परमानंद कटारा बनाम यूनियन ऑफ इंडिया और अन्य [1989] 4 एससीसी 286 में माननीय सर्वोच्च न्यायालय के आदेश के अनुसरण में घायल व्यक्ति का तत्काल इलाज किया जाए।
- (11) सड़क दुर्घटनाओं से संबंधित किसी आपातकालीन परिस्थिति में, जिस समय डाक्टर से चिकित्सीय देखभाल प्रदान किये जाने की आशा की जाती है, किसी डाक्टर द्वारा प्रतिक्रिया के अभाव को भारतीय चिकित्सा परिषद (व्यवसायिक आचार, शिष्टाचार और नैतिक) विनियम, 2002 के अध्याय-7 "व्यवसायिक कदाचार" के अंतर्गत सम्मिलित किया जाएगा तथा उस डा. के विरुद्ध कथित विनियमन के अध्याय-8 के तहत अनुशासनात्मक कार्रवाई की जाएगी।
- (12) सभी अस्पताल इस आशय का अपने प्रवेश द्वार पर हिंदी, अंग्रेजी और राज्य या संघ राज्य क्षेत्र की देशी भाषा में एक चार्टर प्रकाशित करेंगे कि वे बाईस्टैंडर या गुड सेमेरिटन को नहीं रोके अथवा किसी पीड़ित के उपचार के लिए उनसे धन जमा कराने के लिए नहीं कहेंगे।
- (13) यदि कोई बाईस्टैंडर या गुड सेमेरिटन चाहे तो अस्पताल उसे घायल व्यक्ति को अस्पताल में लाने तथा समय और स्थान के संबंध में, उस गुड सेमेरिटन को एक पावती उपलब्ध कराएगा तथा ऐसी पावती को राज्य सरकार द्वारा एक मानक फॉर्म में तैयार किया जाएगा तथा उपर्युक्त समझे जाने पर बाईस्टैंडर या गुड सेमेरिटन को प्रोत्साहन देने के लिए राज्य सरकार द्वारा सभी अस्पतालों में इसे वितरित किया जाएगा।
- (14) सभी सार्वजनिक और निजी अस्पतालों द्वारा इन दिशा-निर्देशों का अनुपालन तत्काल रूप से किया जाएगा तथा इन दिशा-निर्देशों का अनुपालन न किए जाने अथवा उल्लंघन किए जाने के मामले में संबंधित प्राधिकारियों द्वारा उचित कार्रवाई की जाएगी।
- (15) इन दिशा-निर्देशों से युक्त एक पत्र केन्द्रीय सरकार और राज्य सरकार द्वारा अपने संबंधित क्षेत्राधिकार के तहत सभी अस्पतालों और संस्थानों में जारी किया जाएगा जिसमें इस अधिसूचना की राजपत्रित प्रति भी संलग्न होगी तथा स्वास्थ्य एवं परिवार कल्याण मंत्रालय और सड़क परिवहन और राजमार्ग मंत्रालय द्वारा इन दिशा निर्देशों के बारे में आम जनता को सूचित किए जाने हेतु सभी राष्ट्रीय और एक क्षेत्रीय समाचार पत्र एवं इलेक्ट्रॉनिक मीडिया में विज्ञापन प्रकाशित किए जाएंगे।
2. बाईस्टैंडर या गुड सेमेरिटन के बचाव के संबंध में उपर्युक्त दिशा-निर्देश, मोटर यान अधिनियम, 1988 (1988 का 59) की धारा 134 के तहत यथाविनिर्दिष्ट सड़क दुर्घटना में किसी मोटर वाहन के चालक के दायित्व के प्रति पूर्वाग्रह की धारणा रहित है।

संजय बंदोपाध्याय, संयुक्त सचिव



# भारत का राजपत्र

## The Gazette of India

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सड़क परिवहन और राजमार्ग मंत्रालय

(सड़क सुरक्षा)

अधिसूचना

नई दिल्ली, 21 जनवरी, 2016

सं. आरटी-25035/101/2014-आरएस.—जबकि, माननीय सर्वोच्च न्यायालय ने रिट याचिका (सिविल) संख्या 235/2012 में सेव लाईफ फाउंडेशन और अन्य बनाम यूनियन ऑफ इंडिया और अन्य के मामले में अपने आदेश दिनांक 29 अक्टूबर, 2014 के तहत अन्य बातों के साथ-साथ केन्द्रीय विधान मंडल द्वारा उचित विधि निर्माण किए जाने तक गुड सेमेरिटन के बचाव के संबंध में आवश्यक निर्देश जारी करने का निदेश दिया है;

और जबकि, केन्द्रीय सरकार ने सड़क पर किसी घायल व्यक्ति अथवा किसी पीड़ित व्यक्ति की सहायता करने वाले गुड सेमेरिटन जो एक बाईस्टैंडर अथवा राहगीर हो सकता है, के बचाव के लिए, भारत के राजपत्र, भाग-I, खंड-1 में दिनांक 12 मई, 2015 को दिशानिर्देश प्रकाशित किए थे;

और जबकि, दिनांक 12 मई, 2015 को प्रकाशित दिशा-निर्देशों के पैरा संख्या-1 (7) और (8) के तहत पुलिस द्वारा अथवा ट्रायल के दौरान गुड सेमेरिटनों की जांच के लिए मानक संचालन प्रक्रियाओं को तैयार किया जाना है;

और जबकि, केन्द्रीय सरकार, पुलिस द्वारा अथवा ट्रायल के दौरान गुड सेमेरिटनों की जांच पड़ताल के लिए मानक संचालन प्रक्रिया जारी करना आवश्यक समझती है तथा एतद्वारा निम्नलिखित मानक संचालन प्रक्रिया जारी करती है, अर्थात्:-

1.

(1) गुड सेमेरिटन के साथ सम्मानपूर्वक और लिंग, धर्म, राष्ट्रीयता, जाति या किसी अन्य आधार पर भेदभाव किए बिना व्यवहार किया जाएगा।

(2) किसी प्रत्यक्षदर्शी के अलावा, कोई व्यक्ति जो किसी दुर्घटना में घायल व्यक्ति अथवा मृतक के बारे में सूचना देने के लिए पुलिस नियंत्रण कक्ष अथवा पुलिस थाने में फोन कॉल करता है, को पूरा नाम, पता, फोन नंबर आदि जैसा व्यक्तिगत विवरण देने की आवश्यकता नहीं है।

- (3) कोई पुलिस अधिकारी घटनास्थल पर पहुंचने पर गुड सेमेरिटन को रिकार्ड फार्म या लॉग रजिस्टर में, अपना नाम, पहचान, पता और इस प्रकार का अन्य ब्यौरा बताने के लिए बाध्य नहीं करेगा।
- (4) कोई पुलिस अधिकारी या कोई अन्य व्यक्ति किसी घायल व्यक्ति की मदद करने वाले किसी गुड सेमेरिटन को, उस मामले में गवाह बनने के लिए बाध्य नहीं करेगा। मामले में गवाह बनने का विकल्प केवल गुड सेमेरिटन पर निर्भर करेगा।
- (5) सड़क पर घायल किसी व्यक्ति के बारे में पुलिस को सूचना देने के पश्चात् संबंधित पुलिस अधिकारी(यों) द्वारा गुड सेमेरिटन को जाने की अनुमति दी जाएगी और यदि गुड सेमेरिटन उस मामले में गवाह बनने का इच्छुक नहीं होता है तो उससे आगे कोई पूछताछ नहीं की जाएगी।

## 2. पुलिस द्वारा गुड सेमेरिटन की जांच पड़ताल

- (1) यदि कोई गुड सेमेरिटन गवाह बनना चाहता है तो उसकी जांच पड़ताल अत्यधिक संवेदनशीलता एवं सम्मान के साथ और लिंग, धर्म, राष्ट्रीयता, जाति या किसी अन्य आधार पर बिना किसी भेदभाव के, की जाएगी।
- (2) यदि कोई गुड सेमेरिटन गवाह बनना चाहता है और पुलिस थाने जाना नहीं चाहता तो जांच अधिकारी द्वारा सादे कपड़ों में उससे पूछताछ यथासंभव उसकी सुविधानुसार किसी समय और स्थान, जैसे उसके आवास या कार्य के स्थान पर की जाएगी।
- (3) जब गुड सेमेरिटन से पूछताछ उसकी सुविधानुसार समय और स्थान पर किया जाना संभव नहीं होता है और गुड सेमेरिटन को जांच अधिकारी द्वारा पूछताछ के लिए पुलिस थाने में जाना अपेक्षित होता है तो उस अधिकारी द्वारा ऐसा किए जाने के कारणों को लिखित में रिकार्ड किया जाएगा।
- (4) यदि कोई गुड सेमेरिटन पुलिस थाने में जाने का चयन करता है तो उससे बिना किसी अनुचित विलंब के एक तर्कसंगत और समयबद्ध रूप से एक ही बार में पूछताछ की जाएगी।
- (5) यदि गुड सेमेरिटन, जांच अधिकारी की भाषा या संबंधित क्षेत्राधिकार की स्थानीय भाषा से भिन्न भाषा में बातचीत करता है तो जांच अधिकारी द्वारा एक इंटरप्रेटर की व्यवस्था की जाएगी।
- (6) जब कोई गुड सेमेरिटन अपने आप को एक प्रत्यक्षदर्शी घोषित करता है तो उसे, आपराधिक प्रक्रिया संहिता, 1973 (1974 की 2) की धारा 284 जिसका संदर्भ शपथ-पत्र पर औपचारिक रूप से साक्ष्य से है, के अनुसार अपना साक्ष्य शपथ-पत्र पर दिए जाने की अनुमति दी जाएगी।
- (7) जांच पड़ताल करते समय ऐसे गुड सेमेरिटन का पूरा बयान या शपथ-पत्र पुलिस अधिकारी द्वारा एक ही बार पूछताछ के दौरान रिकार्ड किया जाएगा।
- (8) मामले की परिस्थितियों के अंतर्गत यदि गुड सेमेरिटन अनुचित विलंब, व्यय या असुविधा के बिना उपस्थित नहीं हो सकता अथवा उसकी जांच पड़ताल उसकी सुविधानुसार समय और स्थान पर किया जाना संभव नहीं होता है तो संबंधित व्यक्ति द्वारा आवेदन किए जाने पर कोर्ट ऑफ मजिस्ट्रेट, आपराधिक प्रक्रिया संहिता, 1973 (1974 की 2) की धारा 284 के अनुसरण में, उस गुड सेमेरिटन की जांच पड़ताल के लिए एक आयोग नियुक्त कर सकती है।

3. पुलिस अधीक्षक या पुलिस उपायुक्त या किसी जिले के तत्स्थानी वरिष्ठता शीर्ष के पुलिस बल के कोई अन्य पुलिस अधिकारी, जैसा भी मामला हो, यह सुनिश्चित किए जाने के लिए उत्तरदायी होंगे कि उक्त उल्लिखित सभी प्रक्रियाएं उनके संबंधित क्षेत्राधिकार भर में तत्काल रूप से लागू की जाएं।

अभय दामले, संयुक्त सचिव

**MINISTRY OF ROAD TRANSPORT AND HIGHWAYS**  
**(ROAD SAFETY)**  
**NOTIFICATION**

New Delhi, the 21st January, 2016

**No. RT-25035/101/2014-RS.**—Whereas, the Hon'ble Supreme Court in the case of Save Life Foundation and another Vs Union of India and another in Writ Petition (Civil) No. 235/2012 vide its order dated 29<sup>th</sup> October 2014, inter-alia, directed to issue necessary directions with regard to the protection of Good Samaritans until appropriate legislation is made by the Union Legislature;

And whereas, the Central Government published the guidelines in the Gazette of India, Extraordinary, Part I, Section I dated 12<sup>th</sup> May 2015 for protection of the Good Samaritans, i.e. a person who is a bystander or a passer-by, who chooses to assist an injured person or a person in distress on the road;

And whereas, as per para 1 (7) and (8) of the said guidelines dated 12<sup>th</sup> May, 2015, Standard Operating Procedures are to be framed for the examination of Good Samaritans by the Police or during trial;

And whereas, the Central Government considers it necessary to issue Standard Operating Procedure for the examination of Good Samaritans by the Police or during trial and here by issue the following standard operating procedure, namely:—

1.

1. The Good Samaritan shall be treated respectfully and without any discrimination on the grounds of gender, religion, nationality, caste or any other grounds.
2. Any person who makes a phone call to the Police control room or Police station to give information about any accidental injury or death, except an eyewitness may not reveal personal details such as full name, address, phone number etc.
3. Any Police official, on arrival at the scene, shall not compel the Good Samaritan to disclose his / her name, identity, address and other such details in the Record Form or Log Register.
4. Any Police official or any other person shall not force any Good Samaritan who helps an injured person to become a witness in the matter. The option of becoming a witness in the matter shall solely rest with the Good Samaritan.
5. The concerned Police official(s) shall allow the Good Samaritan to leave after having informed the Police about an injured person on the road, and no further questions shall be asked if the Good Samaritan does not desire to be a witness in the matter.

**2. Examination of Good Samaritan by the Police**

1. In case a Good Samaritan so chooses to be a witness, he shall be examined with utmost care and respect and without any discrimination on the grounds of gender, religion, nationality, caste or any other grounds.
2. In case a Good Samaritan chooses to be a witness, his examination by the investigating officer shall, as far as possible, be conducted at a time and place of his convenience such as his place of residence or business, and the investigation officer shall be dressed in plain clothes, unless the Good Samaritan chooses to visit the police station.
3. Where the examination of the Good Samaritan is not possible to be conducted at a time and place of his convenience and the Good Samaritan is required by the Investigation Officer to visit the police station, the reasons for the same shall be recorded by such officer in writing.
4. In case a Good Samaritan so chooses to visit the Police Station, he shall be examined in a single examination in a reasonable and time-bound manner, without causing any undue delay.
5. In case the Good Samaritan speaks a language other than the language of the Investigating Officer or the local language of the respective jurisdiction, the Investigating Officer shall arrange for an interpreter.

6. Where a Good Samaritan declares himself to be an eye-witness, he shall be allowed to give his evidence on affidavit, in accordance with section 296 of the Code of Criminal Procedure, 1973 (2 of 1974) which refers to *Evidence in Formal Character on Affidavit*.
7. The complete statement or affidavit of such Good Samaritan shall be recorded by the Police official while conducting the investigation in a single examination.
8. In case the attendance of the Good Samaritan cannot be procured without delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, or his examination is unable to take place at a time and place of his convenience, the Court of Magistrate may appoint a commission for the examination of the Good Samaritan in accordance with section 284 of the Code of Criminal Procedure, 1973 (2 of 1974) on an application by the concerned.
3. The Superintendent of Police or Deputy Commissioner of Police or any other Police official of corresponding seniority heading the Police force of a District, as the case may be, shall be responsible to ensure that all the above mentioned procedures are implemented throughout their respective jurisdictions with immediate effect.

ABHAY DAMLE, Jt. Secy.