CIRCULAR

No. 23 / 2015

GUIDELINES FOR PROTECTION OF GOOD SAMARITANS/BYSTANDERS WHO ARE SAVING THE LIVES OF THE VICTIMS IN ROAD ACCIDENTS

In continuation of PHQ's Circular No.41/2014, enclosed please find herewith a copy of the Gazette/Notification dated 12.05.2015 issued by the Ministry of Road Transport & Highways (Road Safety Cell), Govt. of India regarding guidelines for protection of Good Samaritans or bystanders in pursuance of the directions of Hon'ble Supreme Court of India.

These guidelines may be followed in true letter and spirit meticulously. Any deviation from these will attract strict disciplinary action.

(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 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 Ho'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.

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).

It is, therefore, impressed upon all concerned that the above instructions shall be meticulously followed by one and all. The Head of Office of local Police Station in whose jurisdiction the incident is reported to have occurred shall pay to the tune of Rs.500/- as transportation expenses to the public person, bringing the victim of road accident and hurt cases to the hospital, at his given address. This will encourage the public persons to lend a willing hand in saving the lives of victims in road accident and hurt cases.

These instructions need to be repeatedly conveyed to all staff at the cutting edge i.e. the Investigating Officers, staff posted at various hospitals where M.L.C. cases are initiated, staff deployed on PCR Vans and Traffic personnel deployed in the field. Non-compliance of the instructions shall be viewed seriously.

31/7/15

(Dr. AJIT K. SINGLA) IPS
DEPUTY COMMISSIONER OF POLICE,
HEADQUARTERS: DELHI.

No. 3138-3267/Record Branch/PHQ DATED DELHI, THE 31/07/2015.

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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 सेवलाईफ़ फाउंडेशन और अन्य बनाम यूनियन ऑफ इंडिया और अन्य के मामले में अपने आदेश दिनांक 29 अक्तूबर, 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 जाना 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 विरूद्ध संबंधित सरकार द्वारा अनुशासनात्मक या विभागीय कार्रवाई की जाएगी जो किसी बाईस्टैंडर या गुड सेमेरिटन को अपना नाम अथवा व्यक्तिगत विवरण देने के लिए बाध्य 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 जाएंगी ताकि यह सुनिश्चित किया जा सके कि किसी बाईस्टैंडर या गुड सेमेरिटन को उत्पीड़ित अथवा धमकाया ना जाए।

(8) जांच की विधियां, आपराधिक 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 जाएंगी।

(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 कांफ्रेंसिंग 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 विरूद्ध 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 रोकेंगे 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 अस्तपाल 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 फार्मेट में तैयार किया जाएगा तथा उपयुक्त 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 इलेक्ट्रानिक 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 हैं।

संजय बंदोपाध्याय, संयुक्त सचिव

MINISTRY OF ROAD TRANSPORT AND HIGHWAYS

NOTIFICATION

New Delhi, the 12th May, 2015

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

No. RT-25035/101/2014 – RS
GOVERNMENT OF INDIA
MINISTRY OF ROAD TRANSPORT & HIGHWAYS
(ROAD SAFETY CELL)
***

Transport Bhawan, 1, Parliament Street,
New Delhi, 03rd June 2015

OFFICE MEMORANDUM

Sub: Guidelines for protection of Good Samaritans in pursuance of direction of Hon'ble Supreme Court of India

***

The undersigned is directed to say that in pursuance of order dated 29.10.2014 of Hon'ble Supreme Court of India in W.P. No. 235 of 2012, the Ministry of Road Transport & Highways has issued the guidelines for protection of Good Samaritans. A copy of the notification dated 12th May 2015 as published in the Gazette of India is enclosed for kind information and necessary action.

(Rajeev Lochan)
Director (RS)
Tel No. 2335 1967

Encl: *As above.*

1. Secretary, Ministry of Home Affairs, (Ref. MHA OM No. Z.24013/24/C.C./2012-CSR.III dated 16.04.2015), North Block, New Delhi.
2. Secretary, Ministry of Health & Family Welfare (Ref. M/o Health OM No. Z.28015/1/2015-H dated 20.03.2015), Nirman Bhawan, New Delhi.
3. Secretary, Department of Legal Affairs, Shastri Bhawan, New Delhi.
4. Secretary, Department of Legislative Department, Shastri Bhawan, New Delhi.

05 JUN 2015

No. 24013/24/C.C./2012-CSR.III (Part)
Government of India
Ministry of home Affairs
(CS Division)
*****

Office of U.S. (UT)
No.....
IN.....

86/c

N.D.C.C. II Building, Jai Singh Road,
New Delhi
Dated the 16th June, 2015

To,

The Home Secretaries of State Governments and UT Administrations.

Subject:- Guidelines for protection of Good Samaritans in pursuance of the directions of Hon'ble Supreme Court of India- Regarding.

Sir/Madam,

I am directed to forward a copy of O.M No. RT-25035/101/2014-RS dated 3rd June 2015 along-with a copy of notification dated 12th May 2015 regarding Guidelines for protection of Good Samaritans in pursuance of order dated 29-10-2014 of Hon'ble Supreme Court of India, as published by Ministry of Road Transport & Highways in the Gazette of India, for kind information and appropriate action.

Yours faithfully,

Mani Ram

(Mani Ram)
Under Secretary to the Govt. of India

Encl.:- As above

To,

1. The Joint Secretary (Judicial), Judicial Division, MHA, NDCC-II Building, New Delhi.
2. The Joint Secretary (UT), UT Division, MHA, North Block, New Delhi.
3. The Joint Secretary (Police-I), Police-I Division, MHA, North Block, New Delhi.
4. The Joint Secretary (Police-II), Police-II Division, MHA, North Block, New Delhi.
5. The Joint Secretary (PM), PM Division, MHA, Jaisalmer House, New Delhi.
6. The Joint Secretary (Delhi), MHA, North Block, New Delhi.
7. The Joint Secretary (HR), HR Division, MHA, NDCC-II Building, New Delhi.

Addl. Commissioner
Dy. No. 37
Date 29/6/2015

C/o Secy. (Um) SPEED POST
Computer Diary No. TPT/2015/

F.No.45039/182/2015-UT(Coord.)
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
UT Division

Dated

OFFICE OF THE CHIEF SECRETARY
GOVT. OF NCT OF DELHI
25 JUN 2015
Dy. No.....

Govt. of NCT of Delhi
Delhi Sachivalaya
Rec'd on
25 JUN 2015
Dy. No.....

North Block, New Delhi
Dated the 22nd June, 2015

To

1. The Chief Secretary, Govt. of NCT of Delhi, Delhi Sachivalaya, I.P. Estate, New Delhi-110002.
2. The Administrator, UT of Dadra & Nagar Haveli, Secretariat, Silvassa.
3. The Administrator, UT of Lakshadweep, Kavaratti.
4. The Chief Secretary, UT of Andaman and Nicobar Islands, Port Blair.
5. The Adviser to the Administrator, UT Chandigarh, Chandigarh.
6. The Administrator, UT of Daman & Diu Secretariat, Daman, Moti Daman.
7. The Chief Secretary, Government of Puducherry, Puducherry.

Sub. Guidelines for protection of Good Samaritans in pursuance of the directions of Hon'ble Supreme Court of India – regarding.

Sir,

I am directed to forward herewith a copy of letter No. 24013/24/C.C./2012-CSR.III(Part) dated 16/06/2015 alongwith OM NO. RT-25035/101/2014-RS dated 03/06/2015 of Ministry of Road Transport & Highways(Road Safety Cell), Transport Bhawan, Parliament Street, New Delhi and copy of notification dated 12/05/2015 on the above mentioned subject for kind information and appropriate action.

Yours faithfully,

(Brij Paul)
Section Officer(Coord.)
UT Division
Ph.: 23093265

Encl : As above

May please see for information and n.s.

06/7/2015

DC (Road Safety)
DC (Enf/Ops)

9/7/15
SO(R.S)
9/7/15
Mrs. Raj Rani

Courtesy

8382/RS
20/7/15

[redacted]

GOVERNMENT OF NCT OF DELHI
TRANSPORT DEPARTMENT
PLANNING BRANCH
5/9, UNDER HILL ROAD, DELHI

F. No.17 (348)/Plg./TPT/2015/1439-49 Dated 17-7-15

To

1. The Secretary (Home), Level-5 'C'Wing, Delhi Secretariat, I.P. Estate, New Delhi-110002.
2. The Secretary, Health & Family Welfare 9th Level, A-Wing, I.P. State, Delhi Secretariat, Delhi – 110002.
3. The Spl. Commissioner, Delhi Traffic Police, MSO Building, Police Head Quarters, New Delhi-110002.
4. The Secretary Law, Justice & Legislative Affairs, 8 Level, Delhi Secretariat, New Delhi-110002.
5. All district Road Safety Committees (as per list attached).

Sub:-Guidelines for protection of Good Samaritans in pursuance of the directions of Hon'ble Supreme Court of India.

Sir,

I am directed to forward herewith a copy of letter no. 15039/182/2015-UT (Coord.) alongwith letter No.24013/24/C.C./2012-CSR.III (Part) dated 16.06.2015 and OM No. RT-25035/101/2014-RS dated 03.06.2015 of Ministry of Road Transport & Highways (Road Safety Cell), Transport Bhawan, Parliament Street, New Delhi and copy of notification dated 12.05.2015 on the above mentioned subject for appropriate action pertaining to your department.

Yours faithfully

(V.K. MONGIA)
Dy. Commissioner (Road Safety)

Encl: As above

Addl CP/T-ops
DCP/HQ

Jt CP/T for n.a

Addl CP/T

SPL. C.P. / Traffic

DCP/HQ

Jt. CP/ Traffic
22-7-15

We can draft a circular for our staff. A copy of this letter may also be sent to DCP/HQ-PHQ for Hq by Distt.

22/7