

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Monday, the 4th day of July 2022 / 13th Ashadha, 1944

SSCR NO. 20 OF 2021

IN THE MATTER OF TRAVANCORE DEVASWOM BOARD - SABARIMALA SPECIAL
COMMISSIONER REPORT - SM NO.21/2021 - REPORT REGARDING THE
FUNCTIONING OF SAFE ZONE PROJECT, SABARIMALA - SUO MOTU
PROCEEDINGS INITIATED - REG:

PETITIONER:

SUO MOTU

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY/JOINT SECRETARY TO
GOVERNMENT, TRANSPORT DEPARTMENT, GOVERNMENT
SECRETARIATE, THIRUVANANTHAPURAM-695 001.
2. TRANSPORT COMMISSIONER (MOTOR VEHICLE DEPARTMENT),
TRANSPORT COMMISSIONERATE, IIND FLOOR, TRANS
TOWER, THYCADU P.O., VAZHUTHACADU,
THIRUVANANTHAPURAM-695 014.
3. THE STATE POLICE CHIEF
POLICE HEAD QUARTERS, VAZHUTHAKKAD,
THIRUVANANTHAPURAM-695 010.
4. THE DISTRICT POLICE CHIEF
PATHANAMTHITTA-689 645.
5. THE TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, NANTHANCODE, KAWDIAR
POST, THIRUVANANTHAPRUAM-695 003.

BY SRI.G.BIJU, SC, TRAVANCORE DEVASWOM BOARD FOR R5

BY THE SPECIAL GOVERNMENT PLEADER FOR R2

BY THE SENIOR GOVERNMENT PLEADER FOR R1, R3 & R4

BY SRI.N.RAGHURAJ, AMICUS CURIAE FOR SABARIMALA
SPECIAL COMMISSIONER

BY SRI.S.MANU, ASSISTANT SOLICITOR GENERAL OF INDIA

HAVING PERUSED THE FINAL ORDER DATED 10/01/2022 AND ORDER DATED 28/06/2022 AND THE DIRECTIONS CONTAINED THEREIN FOR FILING ACTION TAKEN REPORT AND ALSO HAVING PERUSED THE SUBMISSIONS MADE BY THE LEARNED SENIOR GOVERNMENT PLEADER AND THE LEARNED ASSISTANT SOLICITOR GENERAL FOR THE MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, THE COURT ON 04/07/2022 PASSED THE FOLLOWING.

ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.

SSCR No.20 of 2021

Dated this the 4th day of July, 2022

ORDER

Anil K. Narendran, J.

On 26.05.2022, this Court passed a detailed order, whereby specific directions were issued to the 2nd respondent-Transport Commissioner and also the 3rd respondent-State Police Chief. Paragraphs 46 to 51 of that order reads thus:

"45. The learned Special Government Pleader shall place on record the accident reports in respect of the motor accidents which occurred on 01.04.2022, 23.05.2022 and 22.05.2022 referred to hereinbefore at paragraphs 18 to 21, and also the report of the 2nd respondent Transport Commissioner on the use of contract carriages on public place, as evidenced by the video clippings in the compact disc, flouting the safety standards in AIS-008 and also the standards prescribed in relation to control of noise.

46. The 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department and the 3rd respondent State Police Chief, through the District Police Chief of the concerned Districts shall take necessary steps to ensure strict compliance of the directions contained in the order dated 10.01.2022, by preventing the use of contract carriages and other transport vehicles on public place

(i) flouting the safety standards prescribed in AIS-008 and AIS-052 (Rev.1) 2008, after replacing the prototype approved

- lights, light-signalling devices and reflectors with after-market multi-coloured LED/laser/neon lights, flash lights, etc.;
- (ii) without maintaining lighting and light-signalling devices and also retro-reflectors as per the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. specified in AIS-008;
 - (iii) with high-power audio systems producing loud sound with rating of several thousand watts PMPO, impairing the hearing of the driver and the passengers and causing distraction to other road users;
 - (iv) with continuously blinking DJ rotating LED lights, multi-coloured LED/laser/neon lights in the passenger compartment, by converting the passenger compartment as a dancing floor, causing distraction to the driver of that vehicle and also to other road users;
 - (v) with multi-coloured LED/laser/neon lights and also booster amplifiers, equalizer, DJ mixer, etc., with illuminated control panels in the driver cabin, causing glare and reflection of light on the windscreen of the vehicle, endangering the safety of the passengers and other road users;
 - (vi) mixing up of AC and DC power supply for high-power audio systems with DJ mixer, DJ dancing lights, laser lights, etc., violating safety standards, posing a potential fire hazard to the passengers of such vehicles;
 - (vii) tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows, by pasting stickers, tint films, etc. upon the safety glass, fixing sliding cloth cutrains, etc., in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules;
 - (viii) placing/hanging various objects in front of the windscreen and writing the name of the bus in the middle of the windscreen, above the level of the

clear vision of the driver, in violation of Rule 278 of the Kerala Motor Vehicles Rules;

- (ix) exhibiting writings, advertisements, graphics, figures, etc. with the sole object to invite public attention and to promote the contract carriage service, causing distraction to the drivers of other vehicles and also cyclists and pedestrians on public road; since use of such vehicles in public place, flouting the standards in relation to road safety, is likely to endanger the safety of the passengers of such vehicles and also other road users; and
- (x) with multi-toned horn giving a succession of different notes or horn giving unduly harsh, shrill, loud or alarming noise, in violation of sub-rule (2) of Rule 119 of the Central Motor Vehicles Rules.

47. Any person, who drives or causes or allows to be driven in any public place a contract carriage or other transport vehicle, violating the standards prescribed in AIS-008 and AIS-052 (Rev. 1) 2008,

- (i) without maintaining lighting and light-signalling devices and also retro-reflectors as per the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. specified in AIS-008; or
- (ii) after replacing the prototype approved lights, light-signalling devices and reflectors with after-market multi-coloured LED/laser/neon lights, flash lights, etc.;

or violating the standards prescribed in relation to control of noise using multi-toned horn giving a succession of different notes or horn giving unduly harsh, shrill, loud or alarming noise; shall be proceeded against under sub-section (2) of Section 190 of the said Act for an offence punishable with the imprisonment and fine specified in that sub-section and he shall be disqualified for holding licence for a period of three months and for any subsequent offence with imprisonment and fine as specified in that sub-section.

48. In view of the provisions under sub-section (4) of Section 206 of the Motor Vehicles Act, inserted by

2019, with effect from 01.10.2020, a police officer or other person authorised in this behalf by the State Government shall seize the driving licence held by the driver of a motor vehicle who has committed an offence under Section 190 and forward it to the licensing authority for disqualification or revocation proceedings under Section 19.

49. The certificate of fitness granted to a transport vehicle governed by AIS-008, which is not installed with lighting and light-signalling devices and also retro-reflectors referred to in Para.6.0, conforming to the individual specifications for such lighting and light-signalling devices and also for retro-reflectors prescribed in Paras.6.1 to 6.20, or a transport vehicle governed by AIS-008, which is installed with lighting and light-signalling devices or retro-reflectors other than those referred to in Para.6.0, which cannot be treated as a vehicle that complies with the provisions of the Motor Vehicles Act and the Rules made thereunder, for the purpose of grant of certificate of fitness, shall be cancelled by the prescribed authority, in accordance with the provisions under sub-section (4) of Section 56 of the Motor Vehicles Act. In appropriate cases, the registering authority shall initiate proceedings to suspend or cancel the letter of authority granted or renewed under sub-rule (5) of Rule 63 of the Central Motor Vehicles Rules or forfeit security deposit, after affording the holder of letter of authority an opportunity of being heard.

50. The 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department and the 3rd respondent State Police Chief, through the District Police Chief of the concerned Districts shall ensure that colour photographs and video clippings of the exterior body of the contract carriage or other transport vehicle, the driver cabin and the passenger cabin are enclosed along with the accident report/inspection report and that, the person, who drives or causes or allows to be driven in any public place such a transport vehicle, flouting the safety standards in AIS-008 and the standards prescribed in relation to control of noise, are proceeded against in accordance with law.

51. The 2nd respondent Transport Commissioner shall publish 'WhatsApp' number of the Enforcement Officer in each district, in print and visual media, and also in the official website of the Motor Vehicle Department, so as to enable the road users to bring to the notice of the

vehicles on public place flouting the safety standards regarding the lighting and light-signalling devices, retro-reflectors and also the standards prescribed in relation to control of noise. The Enforcement Officers shall also collect evidence regarding such violations of safety standards, from the video contents available on online video platforms like, 'YouTube'."

2. On 28.06.2022, when this matter came up for consideration, from a news item that appeared in the Times of India, Kochi Edition on 21.06.2022, this Court noticed that despite the Motor Vehicles Department acting against contract carriages using unauthorised lights and sound system that distracted other motorists and could cause accidents, such violations are continuing.

3. Since the learned Special Government Pleader submitted that an Action Taken Report of the Additional Director General of Police (Law and Order) on behalf of the State Police Chief, was being filed, this matter was ordered to be listed on 08.07.2022 at 01.45 p.m.

4. Registry was directed to list this matter today, in a special list, in view of the news item that appeared in print and visual media regarding an incident that occurred at Peruman Engineering College, Kollam. We have also viewed the video clippings in open court. Two screen shots taken from that video clippings are reproduced hereunder:



5. The state of affairs, as disclosed from the news report that appeared in print and visual media make it explicitly clear that even after the orders of this Court, contract carriages are being used in public place flouting the safety requirements, posing a potential threat to the safety of passengers and other road users.

6. Today, the learned Special Government Pleader has filed an Action Taken Report dated 27.06.2022 of the Additional Director General of Police (Law and Order), on behalf of the State Police Chief.

7. The Assistant Solicitor General of India would submit that, in terms of the order of this Court dated 26.05.2022, a statement on behalf of the Ministry of Road Transport and Highways is being filed today.

8. Registry to incorporate the same.

9. The learned Special Government Pleader seeks time to get instructions on the incident referred to in the news item that appeared in print and visual media. The learned Special Government Pleader shall get instructions as to whether such vehicles are being used in schools as educational institution buses, on contract basis, and also by the Kerala State Road Transport Corporation, for tourism promotion.

10. By the order dated 26.05.2022 the 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department and the 3rd respondent State Police Chief, through the District Police Chief of the concerned Districts were directed to ensure that colour photographs and video clippings of the exterior body of the contract carriage or other transport vehicle, the driver cabin and the passenger cabin are enclosed along with the accident report/inspection report and that, the person, who drives or causes or allows to be driven in any public place such a transport vehicle, flouting the safety standards in AIS-008 and the standards prescribed in relation to control of noise, are proceeded

Pleader shall get instructions as to whether the aforesaid direction is being complied with in letter and spirit, by the officers concerned.

11. Registry to provide copies of the video clippings to the learned Special Government Pleader and also to the learned ASGI in a compact disc, a copy of which shall also be kept in the Judge's papers.

List on 08.07.2022 for further consideration as originally ordered on 28.06.2022.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

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