

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

Wednesday, the 9th day of February 2022 / 20th Magha, 1943

CONTEMPT CASE(C) NO. 1728 OF 2021(S) IN WP(C) 39574/2018

PETITIONERS/PETITIONERS IN WP:

1. ANOOP K.A., AGED 41, S/O ABDUL RAHMAN, KOOLIYADEN HOUSE, VALAYANCHIRANGARA. P.O,PERUMBAVOOR, ERNAKULAM, PRESIDENT, ALL KERALA TRUCK OWNERS ASSOCIATION.
2. SUBIN PAUL, AGED 42, S/O.E.P. PAULOSE, EDAYENAL HOUSE, KERINAD. P.O, PUTHENCRUZ, ERNAKULAM DISTRICT, SECRETARY, ALL KERALA TRUCK OWNERS ASSOCIATION.

BY ADVS. M/S. P.K.SREEVALSAKRISHNAN, K.R.PRATHISH.

RESPONDENTS/RESPONDENTS IN WP:

1. K.R. JYOTHYLAL, (CORRECTED)
SECRETARY, MOTOR VEHICLE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.
R1 IS CORRECTED AS
BIJU PRABHAKAR, PRINCIPAL SECRETARY TO THE GOVERNMENT,
TRANSPORT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.
2. MR.AJITH KUMAR, TRANSPORT COMMISSIONER,
MOTOR VEHICLE DEPARTMENT, THIRUVANANTHAPURAM, PIN-695 001.
3. SHAJI MADHAVAN, THE DEPUTY TRANSPORT COMMISSIONER,
CENTRAL ZONE-II, KAKKANAD, ERNAKULAM-682 030.

P.T.O.

4. KUNJUMON. K.P, (CORRECTED)
REGIONAL TRANSPORT OFFICER,
REGIONAL TRANSPORT OFFICE ENFORCEMENT,
CENTRAL ZONE-II, KAKKANAD, ERNAKULAM-682 030.
R4 IS CORRECTED AS
ANANTHAKRISHNAN, REGIONAL TRANSPORT OFFICER,
REGIONAL TRANSPORT OFFICE ENFORCEMENT, CENTRAL ZONE-II,
KAKKANAD, ERNAKULAM-682 030.

NAME & DESCRIPTION OF R1 AND NAME OF R4 CORRECTED AS PER
ORDER DATED 17/11/2021 IN IA.2/2021 IN COC.1728/2021.

This Contempt of court case (civil) having come up for orders on
09.02.2022, the court on the same day passed the following:



P.T.O.

ANIL K. NARENDRAN, J.

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Dated this the 9th day of February, 2022

ORDER

The petitioners, who are the President and Secretary respectively of All Kerala Truck Owners Association, have filed this Contempt Case (Civil) invoking the provisions under Section 12 of the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India, to issue notice to the respondents herein, frame charges against them, proceed against them, and punish them for wilful disobedience of the directions contained in the judgment of this Court dated 29.07.2019 in W.P.(C)No.39574 of 2018 [**Anoop K.A. and another v. State of Kerala and others - 2019 (5) KHC 414**].

2. The petitioners filed W.P.(C)No.39574 of 2018 seeking a writ of mandamus commanding respondents 1 to 4 to take steps to strictly implement Ext.P1 directions issued on 18.08.2015 by the Supreme Court Committee on Road Safety. They have also sought for a writ of mandamus commanding the respondents to consider Ext.P2 representation made before the 2nd respondent Transport Commissioner and take necessary action against goods carriages carrying overload, as per the

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provisions under the Motor Vehicles Act, 1988 and the Central Motor Vehicles Rules, 1989.

3. In **Anoop K.A. [2019 (5) KHC 414]** this Court directed respondents 1 and 2, namely, the State of Kerala and the Transport Commissioner, Kerala, to take necessary steps, through duly authorised police officers and the officers of the Motor Vehicles Department, including respondents 3 and 4, namely, the Deputy Transport Commissioner, Central Zone-II, Ernakulam and the Regional Transport Officer, Ernakulam, to ensure strict implementation of the Road Safety Policy and also the provisions under the Motor Vehicles Act and the Motor Vehicles (Driving) Regulations, 2017 in the State of Kerala, as directed by the Apex Court in **S. Rajaseekaran [(2018) 13 SCC 532]**. In view of the law laid down in **V. Rajendran v. Regional Transport Officer, Thanjavur [2011 SCC OnLine Mad 1397]**, **Peethambaran T.R. v. Additional Licensing Authority and another [2012 (3) KHC 917]**, **Ashish Gosain v. Department of Transport and another [AIR 2016 Delhi 162]**, **Ajith v. State of Kerala and others [2017 (1) KHC 328]**, **S. Rajaseekaran v. Union of India [(2014) 6 SCC 36]**, **S. Rajaseekaran (2) v. Union of India**

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[(2018) 13 SCC 532], and **Paramjit Bhasin v. Union of India [(2005) 12 SCC 642]**, and also the directions issued by the Supreme Committee on Road Safety in Ext.P1, in cases in which offences like driving at a speed exceeding the specified limit; carrying overload in goods carriages; driving vehicles under the influence of drinks and drugs; using mobile phone while driving a vehicle; etc. are detected, the duly authorised police officers and the officers of the Motor Vehicles Department shall forthwith forward the driving licence of the driver of the vehicle to the Licensing Authority, for initiating proceedings under sub-section (1) of Section 19 of the Motor Vehicles Act. This Court ordered that, stern action shall be taken against the use of goods carriages and trailers in contravention of the provisions of Section 113 or Section 114 or Section 115 [which deals with power to restrict the use of vehicle] of the Motor Vehicles Act or clause (7) of Rule 90 of the Central Motor Vehicles Rules, and also for carrying persons in contravention of sub-regulations (2) and (3) of Regulation 32; for carrying load in contravention of sub-regulations (1) and (2) of Regulation 35 of the Motor Vehicles (Driving) Regulations, 2017. This Court further ordered that, considering the increase in the number of

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'hit and run' accidents reported every year, stern action shall be taken against the use of motor vehicles, including goods carriages and trailers, in contravention of the provisions under Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017, i.e., against the use of motor vehicles on public roads without displaying the registration plates as prescribed by the Motor Vehicles Act and the rules made thereunder.

4. In this Contempt Case, by the order dated 28.10.2021, the 2nd respondent Transport Commissioner, the 3rd respondent Deputy Transport Commissioner and also the 4th respondent Regional Transport Officer were directed to file individual affidavits before this Court explaining the action, if any, taken in terms of the directions contained in the judgment of this Court dated 29.07.2019 in W.P.(C)No.39574 of 2018. The 2nd and 4th respondents were directed to furnish in the said affidavits, the details of the goods carriages which were booked for carrying overload in contravention of Section 113 or Section 114 of Section 115 of the Motor Vehicles Act, after the judgment of this Court dated 29.07.2019, and state as to whether, after compounding under Section 200 of the Act, the offence punishable under Section 194 for driving vehicle

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exceeding permissible weight, the excess load was permitted to be carried in the vehicle concerned, in contravention of Section 113 of the Act. They were directed to furnish the driving licence particulars of the drivers of the goods carriages, which were booked for carrying overload, and also the details of the proceedings initiated by the licensing authority in order to disqualify them from holding driving licence for a specified time or to revoke such licence, under clause (f) of sub-section (1) of Section 19 of the Act. The 2nd respondent Transport Commissioner was directed to state as to whether, with effect from 01.10.2020, the details of driving licences disqualified or revoked by the licensing authority are recorded chronologically in the portal and such record are reflected on a regular basis on the portal, as per the mandate of sub-rule (2) of Rule 21 of the Central Motor Vehicles Rules, and the action, if any, taken against the use of goods carriages on public roads without displaying the registration mark in the manner specified under the provisions of the Central Motor Vehicles Rules and also the Motor Vehicles (Driving) Regulations.

5. In the order dated 28.10.2021, this Court noticed that, in view of the provisions under clause (8) of Rule 21 of

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the Central Motor Vehicles Rules, carrying overload in goods carriages constitute an act, which is likely to cause nuisance or danger to the public, for the purpose of clause (f) of sub-section (1) of Section 19 of the Motor Vehicles Act. Regulation 35 of the Motor Vehicles (Driving) Regulations, 2017 prohibits projection of loads in vehicles. Some of the photographs produced along with this Contempt Case are regarding plying of goods carriages carrying huge logs projecting beyond the 'load body', i.e., the loading platform of the vehicle, in a manner which is likely to cause danger to other road users. The loads carried in those goods carriages are extending laterally beyond the sides of the 'load body' and projecting to the front and to the rear. As evident from the photographs the loads carried in those goods carriages even exceeds in height and weight the limits specified in the certificate of registration of such vehicles.

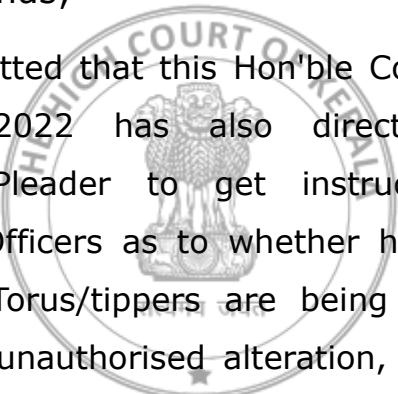
6. On 12.01.2022, when this Contempt Case came up for consideration, the learned Special Government Pleader was directed to get instructions from the Enforcement Officers as to whether the height of the load body of Torus/tippers are permitted to be increased by unauthorised alterations, in order to carry overload.

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7. Today, when this Contempt Case is taken up for consideration, the learned Special Government Pleader has filed individual affidavits of respondents 2, 3 and 4.

8. Paragraph 9 of the affidavit filed by the 2nd respondent Transport Commissioner deals with unauthorised alterations detected in Torus/tippers by increasing the height of the load body, in order to carry overload. Paragraph 9 of the said affidavit reads thus;



"9. It is submitted that this Hon'ble Court as per Order dated 12.01.2022 has also directed the Special Government Pleader to get instructions from the Enforcement Officers as to whether height of the load body of the Torus/tippers are being permitted to be increased, by unauthorised alteration, in order to carry overload. In compliance to the above direction, all officers of the department were directed to furnish a detailed report in this regard. The Deputy Transport Commissioner, South Zone has furnished details of the vehicle booked for unauthorised alteration (increase of body height). True copy of the report dated 31.01.2022 is produced herewith and marked as **Annexure R2(d)**. The report dated 03.02.2022 of the Deputy Transport Commissioner, Central Zone II, Ernakulam is produced herewith and marked as **Annexure R2(e)**. The report dated 03.02.2022 of the Deputy Transport Commissioner, Central Zone I, Thrissur is produced herewith and

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marked as **Annexure R2(f)**. The report dated 31.01.2022 of the Deputy Transport Commissioner, North Zone, Kozhikode is produced herewith and marked as **Annexure R2(g)**."

9. In paragraph 10 of the affidavit filed by the 2nd respondent Transport Commissioner, it is stated that, the officers of the Enforcement Wing are taking all possible measures to detect alterations of Torus/tippers in order to carry overload. Such unauthorised alterations detected by the Enforcement Officers have been compounded and the offenders have been directed to adhere to the specifications in the Registration Certificate of the vehicle and produce the vehicle before the respective authority for inspection. In paragraph 4 of the said affidavit, the Transport Commissioner has furnished the details of goods carriages booked for carrying overload in contravention of Sections 113, 114 and 115 of the Motor Vehicles Act and also the details of action taken against use of goods carriages on public place without displaying the registration mark in the manner specified under Rule 50 of the Central Motor Vehicles Rules and Regulation 36 of the Motor Vehicles (Driving) Regulations. In paragraph 5 of the said affidavit, the Transport Commissioner has stated that, shortfall

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in disqualification of driving licenses noticed during the period in question is due to nation-wide and state-wide lock-down and since Enforcement Officers are engaged in facilitating smooth movement of oxygen and other pandemic prevention measures. They were also deputed to Covid war room duty in State and District headquarters in the wake of Covid-19 pandemic.

10. In the affidavit sworn to by the 3rd respondent Deputy Transport Commissioner, Central Zone-II, Kakkanad, it is stated that, the Enforcement Officers are taking stringent and effective actions against violation of Section 113 and 114 of MV Act, even though the officers are facing many backlash in the implementation of the same. The Enforcement Officers are also facing threat from Torus/tipper drivers and owners. Due to Covid-19 pandemic situation, the Enforcement Officers have shown some leniency by not suspending the driving license except in grave offences. The details of the vehicles booked for carrying overload in goods vehicles, load projection, intra operation, and not exhibiting registration mark in prescribed manner, carrying more persons in cabin, etc., under Central Zone-II are produced as Annexures R3(a) to R3(c). Paragraphs 10 to 12 of the affidavit filed by the 3rd respondent read thus;

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"10. It is submitted that the enforcement officers are taking stringent and effective actions against violation of Section 113 and 114 of MV Act, even though the officers are facing many backlash in the implementation of the same. There are no sufficient weigh bridges within the distance limit as stipulated in Section 114 of Motor Vehicles Act. Moreover, insufficiency of proper godown facility is a challenge to off-load commodities like vegetable, fish, cement etc. It submitted that NHAI can provide this facility on rent since the damage due to overload is sustained by their roads. Another impediment is to detain vehicle seized u/s 207 of Motor Vehicles Act, Section 11 of Kerala Motor Vehicles Taxation Act, etc. Police Station premises are overcrowded with vehicles involved in various crimes. In many other States such places with security personal and surveillance cameras are provided at Government or private hired grounds.

11. It is submitted that another threat faced by the officers with a meagre enforcement force, is the articulated strength of a guild Tipper, Torus drivers and owners. At the moment a vehicle is stopped for checking, they gather as if from, 'thin air' and start threatening the enforcement officers and many time even manhandles them, which enter in police case. The irony is that on many occasions the complainant turns accused due to their influence.

12. It is submitted that due to Covid-19 pandemic situation, the enforcement officers have shown certain leniency by not suspending the driving license except in grave offences, since the beneficiaries of overloading are

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the vehicle owners. It is submitted that pursuant to the direction of this Hon'ble Court, stringent actions were taken and the details of number of cases have been prepared during the period from 29.07.2019 to 31.10.2021 under the jurisdiction of this respondent for the offences of overload in goods vehicles, load projection, intra operation, and registration mark not in prescribed manner, carrying more persons in cabin. Action taken report of the Regional Transport Officer (Enforcement) in respect of Ernakulam District is produced herewith and marked as **Annexure R3(a)** and the action taken report of the Regional Transport Officer (Enforcement) in respect of Kottayam District is produced herewith and marked as **Annexure R3(b)** and the action taken report of the Regional Transport Officer (Enforcement) in respect of Idukki District is produced herewith and marked as **Annexure R3(c).**"

11. In paragraphs 13 to 17 of the affidavit filed by the 3rd respondent, it is stated that, heavy goods vehicle bearing number KL-40/G-9202 owned by the 1st petitioner Anoop, covered by an All India Permit, was seized by the Enforcement Officer in the Motor Vehicles Department, on 16.12.2016, at Vyttila, for non-payment of tax and for operating without certificate of fitness. Since the seized vehicle could not be garaged due to lack of space in Police Station premises, it was entrusted to the owner himself, on the strength of an

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undertaking that the vehicle shall not be put to service unless tax is paid, fitness obtained and offences compounded. But the 1st petitioner violated the above said undertaking. After obtaining installment facility from the Government, the 1st petitioner remitted only an amount of Rs.73,038/- out of Rs.2,15,202/-. The said vehicle is still under tax arrears and revenue recovery is also pending. On 06.02.2021, the 1st petitioner submitted Form G application in respect of heavy goods vehicle bearing number KL-40/G-9202, seeking tax exemption for the period from 01.07.2019 to 31.03.2021. As per the provisions under the Kerala Motor Vehicles Taxation Act and the Rules made thereunder, Form G has to be filed before the period for which tax exemption is sought for. The 1st petitioner filed W.P.(C)No.4878 of 2020 seeking tax exemption based on Form G filed on 06.02.2021. This Court directed him to approach the Taxation Officer. Accordingly, the 1st petitioner was heard and his documents verified by the Taxation Officer, who rejected his claim for tax exemption. The appeal filed by the 1st petitioner was rejected by the Deputy Transport Commissioner. The revision filed before the Transport Commissioner was also rejected. Now an amount of

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Rs.3,70,518/- is due from the 1st petitioner as tax arrears and the said vehicle has not been issued with fitness certificate or permit.

12. In paragraph 18 of the affidavit filed by the 3rd respondent, it is alleged that, the 1st petitioner has the practice of interfering with the enforcement activities of the officers in the Motor Vehicles Department by appearing in the checking spot and compelling the officers for negotiation as a representative of vehicle owners and then convince the owners that the lawful concessions gained is solely due to his interference. Later he persuades the owners to join his Union and collects fairly good amount from them for Union activities.

13. In the affidavit filed by the 4th respondent Regional Transport Officer (Enforcement), Ernakulam, it is stated that, during the period from 29.07.2019 to 31.10.2021 the officers under the said respondent have issued 1443 challans against vehicles carrying overload, out of which 1200 cases have been compounded under Section 200 of the Motor Vehicles Act. 243 pending challans have been forwarded to the Additional Chief Judicial Magistrate Court, Ernakulam, along with charge sheet. As per the said affidavit, 34 challans have been issued against

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National Permit Vehicles registered in other States, for picking up and setting down goods between two points situated in State of Kerala; 71 challans have been issued against goods vehicles loaded with goods in such a manner that the load or any part thereof extend laterally beyond the side of the body or to the front or rear or in height beyond the permissible limit; 8 challans have been issued for carrying persons in the driver cabin of goods carriages more than the number specified in the certificate of registration and for carrying persons for hire or reward; 56 challans have been issued against goods vehicles for projection of load; 3558 challans have been issued against vehicles without proper registration plates; etc. As per the direction given from the office of the Transport Commissioner, stringent action has been taken against overloading in vehicles carrying SUPPLYCO goods. On 22.10.2021, the officers under the 4th respondent issued challan bearing No.KL-10464221104190443 on detecting an overload of 14 tons in a vehicle carrying SUPPLYCO goods. In paragraphs 9 and 10 of the affidavit filed by the 4th respondent, it is stated that, the Enforcement Officers are facing threat from Torus/tipper drivers and owners. Due to Covid-19 pandemic situation, the

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Enforcement Officers have shown some leniency by not suspending the driving license except in grave offences.

14. The learned counsel for the petitioners seeks two weeks time to file reply affidavit to the affidavits filed by respondents 2 to 4.

15. In **Anoop K.A. [2019 (5) KHC 414]** this Court noticed that, grant of national permits in respect of goods carriages under sub-section (12) of Section 88 of the Motor Vehicles Act, read with Rule 90 of the Central Motor Vehicles Rules is for the purpose of encouraging long distance inter-state road transport. In view of the prohibition contained in clause (7) of Rule 90, goods carriages which are issued with national permits in States other than State of Kerala shall not be permitted to pick up or set down goods between two points in the State of Kerala. In view of the provisions under clause (8) of Rule 21 of the Central Motor Vehicles Rules, carrying overload in goods carriages shall constitute an act, which is likely to cause nuisance or danger to the public, for the purpose of clause (f) of sub-section (1) of Section 19 of the Motor Vehicles Act. As held in **V. Rajendran [2011 SCC OnLine Mad 1397]** and **Peethambaran [2012 (3) KHC 917]**, the

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power of the Licensing Authority under sub-section (1) of Section 19 for making an order disqualifying the holder of driving licence for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence; or revoke any such licence, is not dependent upon a conviction of the offender. The said power can be invoked immediately upon the commission of the offence, where the Licensing Authority is satisfied of the existence of the conditions stipulated in that provision. As held in **Ashish Gosain [AIR 2016 Delhi 162]**, compounding of an offence under Section 200 of the Motor Vehicles Act does not, in any manner, affect the power of the Licensing Authority in exercising its power under sub-section (1) of Section 19 of the said Act. As held by the Apex Court in **Paramjit Bhasin v. Union of India [(2005) 12 SCC 642]**, compounding can be done either before or after the institution of the prosecution in respect of the enumerated offences in Section 200 of the Motor Vehicles Act. However, after compounding an offence punishable under Section 194 of the Act relating to excess load, that excess load cannot be permitted to be carried in the vehicle concerned. Such carriage would amount to infraction of

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Section 113 of the Act. The intention of uploading the excess load is apparent from a bare reading of sub-section (1) of Section 194. The liability to pay charge for uploading of the excess load is fixed on one who drives a vehicle or causes a motor vehicle to be driven in contravention of the provisions of Sections 113, 114 and 115 of the Act.

16. In **Anoop K.A. [2019 (5) KHC 414]** this Court noticed that, as per sub-regulation (1) of Regulation 35 of the Motor Vehicles (Driving) Regulations, the driver shall at all times ensure that loads, including load restraints and loading equipment, in the vehicle are stowed and restrained in such manner that these cannot slip, fall over, roll around, fall off the vehicle or produce avoidable noise, even in an emergency braking situation or if the vehicle swerves suddenly. As per sub-regulation (2), no driver shall drive in any public place a motor vehicle which is loaded in a manner which is likely to cause danger to any person. As per sub-regulation (3), the load or any part thereof, or any other object in the vehicle shall not extend laterally beyond the sides of the body or to the front or to the rear or exceed in height or weight the limits specified in the certificate of registration of the vehicle.

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17. As per sub-section (3) of Section 190 of the Motor Vehicles Act, any person who drives or causes or allows to be driven, in any public place a motor vehicle which violates the provisions of this Act or the rules made thereunder relating to the carriage of goods which are of dangerous or hazardous nature to human life, shall be punishable for the first offence with a fine of ten thousand rupees and he shall be disqualified for holding licence for a period of three months, or with imprisonment for a term which may extend to one year, or with both, and for any second or subsequent offence with fine of twenty thousand rupees, or with imprisonment for a term which may extend to three years, or with both.

18. As per sub-section (4) of Section 206 of the Motor Vehicles Act, a police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the driver of a motor vehicle has committed an offence under any of Sections 183, 184, 185, 189, 190, 194C, 194D, or 194E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under Section 19. As per the proviso to sub-section (4) of Section 206, the person seizing the licence

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shall give to the person surrendering the licence a temporary acknowledgement therefor, but such acknowledgement shall not authorise the holder to drive until the licence has been returned to him.

19. In **Anoop K.A. [2019 (5) KHC 414]** this Court held that, in view of the law laid down in the decisions referred to supra and also the directions issued by the Supreme Committee on Road Safety in Ext.P1, in cases in which offences like driving at a speed exceeding the specified limit; carrying overload in goods carriages; driving vehicles under the influence of drinks and drugs; using mobile phone while driving a vehicle; etc. are detected, the duly authorised police officers and the officers of the Motor Vehicles Department shall forthwith forward the driving licence of the driver of the vehicle to the Licensing Authority, for initiating proceedings under sub-section (1) of Section 19 of the Motor Vehicles Act. The compounding, if any, of the offence under Section 200 of the Motor Vehicles Act (either before or after the institution of any prosecution) shall not in any manner affect the proceedings initiated by the Licensing Authority under sub-section (1) of Section 19 of the said Act.

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20. Along with this Contempt Case, the petitioners have produced Annexure A3 and Annexure A4 Truck Chit/Gate Pass dated 22.07.2021 and 20.09.2021 issued by SUPPLYCO regarding transportation of 30,000 Kg and 20,000/- kg rice in two goods carriages to PDS Depot Ottappalam and PDS Sub Depot Changanassery, respectively. The petitioners have produced Annexure A5 series of photographs taken during the 2nd week of September, 2021 regarding plying of goods carriages carrying overload through MC Road. In paragraph 7 of the affidavit filed by the 4th respondent Regional Transport Officer (Enforcement), Ernakulam, on 22.10.2021, the officers under the 4th respondent issued challan bearing No.KL-10464221104190443 on detecting an overload of 14 tons in a vehicle carrying SUPPLYCO goods.

21. On 04.02.2022, the Enforcement Officers of the Motor Vehicles Department issued challan against a goods carriage bearing registration No.KL-68/1107 used for transporting SUPPLYCO goods in Devikulam Taluk, for non-payment of motor vehicles tax after March, 2021. As per the news item that appeared in MEDIAone Online, on 04.02.2022, the said vehicle was booked by the Enforcement Officers at

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Munnar General Hospital Junction. A screen-shot of the news item that appeared in MEDIAone Online, on 04.02.2022, is reproduced hereunder;



The said vehicle is carrying a name board "**KERALA STATE**". The background of the name board is in red colour and the letters in white colour. The names of "SUPPLYCO" and "Kerala State Civil Supplies Corporation" are exhibited on the front cowl of that goods vehicle in black letters, on blue background. The learned Special Government Pleader shall obtain a report from the concerned Enforcement Officer of the Motor Vehicles Department on the challan issued to goods carriage bearing registration No.KL-68/1107; whether the said vehicle is owned

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by the Kerala State Civil Supplies Corporation; and whether the said vehicle was carrying overload.

22. Many goods carriages are seen plying in the State, carrying the name board "**Government of Kerala**", "**Kerala State**", "**Government Vehicle**", etc. to mislead the Police, the Enforcement Officers of the Motor Vehicles Department, etc. by giving an impression that the said vehicles are owned by a Government Department. Persons in such vehicles are pretending as if they are Government servants and they are misusing such name boards to escape from the checking of vehicle by the Police, Enforcement Officers of the Motor Vehicles Department, etc., and to avoid payment of toll at the toll booths. It is the duty of the Police and the Enforcement Officers of the Motor Vehicles Department to keep an eye on such vehicles, subject them to thorough checking, besides verifying the identity of persons in it, and initiate appropriate proceedings in accordance with law.

23. In the order dated 28.10.2021 in this Contempt Case, this Court noticed that, since the plying of goods vehicles on public place flouting the statutory provisions referred to hereinbefore and also the direction contained in the judgment

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of this Court in **Anoop K.A. [2019 (5) KHC 414]** is likely to cause danger to other road users, this is a fit case in which this Court can exercise its inherent powers under Article 215 of the Constitution of India, in order to ensure the safety of the most vulnerable road users such as pedestrians, cyclists, children, elderly persons and differently-abled persons.

24. In view of the direction contained in the judgment of this Court in **Anoop K.A. [2019 (5) KHC 414]**, in cases in which the offence of carrying overload in goods carriages is detected, the duly authorised police officers and the officers of the Motor Vehicles Department shall forthwith forward the driving licence of the driver of the vehicle to the Licensing Authority, for initiating proceedings under sub-section (1) of Section 19 of the Motor Vehicles Act. It is for respondents 2 to 4 to ensure strict compliance of the directions contained in the said judgment.

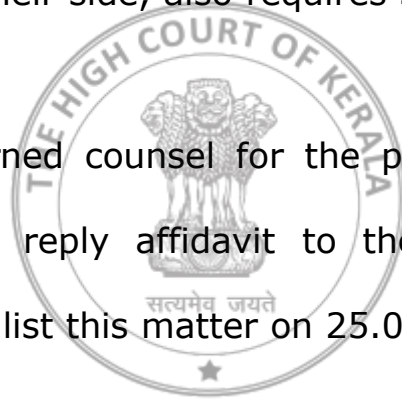
25. From the affidavits filed by respondents 2 to 4, it is stated that, due to Covid-19 pandemic situation, the Enforcement Officers of the Motor Vehicles Department have shown leniency by not suspending the driving license except in grave offences. The aforesaid stand taken by respondents 2 to

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4 are in violation of the statutory provisions referred to hereinbefore and also the directions contained in the judgment of this Court in **Anoop K.A.**, which requires serious consideration by this Court. Similarly, any interference with the enforcement activities of the officers in the Motor Vehicles Department, either by the Torus/tipper drivers and owners or by the office bearers of their unions, or any threat faced by such officers from their side, also requires serious consideration by this Court.

Since the learned counsel for the petitioners seeks two weeks time to file reply affidavit to the affidavits filed by respondents 2 to 4, list this matter on 25.02.2022.



Sd/-
ANIL K. NARENDRAN
JUDGE

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APPENDIX OF CON.CASE(C) 1728/2021

- EXHIBIT P1** TRUE COPY OF THE DIRECTION ISSUED BY THE SUPREME COURT COMMITTEE ON ROAD SAFETY HEADED BY ITS CHAIRMAN JUSTICE K.R. RADHAKRISHNAN DATED 18/08/2015.
- EXHIBIT P2** TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 2ND RESPONDENT TRANSPORT COMMISSIONER, THIRUVANANTHAPURAM DATED 08/08/2018.
- Annexure R2(d)** TRUE COPY OF THE REPORT DATED 31/01/2022.
- Annexure R2(e)** THE REPORT DATED 03/02/2022 OF THE DEPUTY TRANSPORT COMMISSIONER, CENTAL ZONE II, ERNAKULAM.
- Annexure R2(f)** THE REPORT DATED 03/02/2022 OF THE DEPUTY TRANSPORT COMMISSIONER, CENTRAL ZONE I, THRISSUR.
- Annexure R2(g)** THE REPORT DATED 31/01/2022 OF THE DEPUTY TRANSPORT COMMISSIONER, NORTH ZONE, KOZHIKODE.
- Annexure R3(a)** TRUE COPY OF ACTION TAKEN REPORT OF THE REGIONAL TRANSPORT OFFICER (ENFORCEMENT) IN RESPECT OF ERNAKULAM DISTRICT.
- Annexure R3(b)** TRUE COPY OF ACTION TAKEN REPORT OF THE REGIONAL TRANSPORT OFFICER (ENFORCEMENT) IN RESPECT OF KOTTAYAM DISTRICT.
- Annexure R3(c)** TRUE COPY OF ACTION TAKEN REPORT OF THE REGIONAL TRANSPORT OFFICER (ENFORCEMENT) IN RESPECT OF IDUKKI DISTRICT.
- Annexure A3** TRUE COPY OF THE GATE PASS DATED 22.07.2021 ISSUED BY THE SUPPLYCO TOWARDS THE TRANSPORTATION OF THE RICE TO OTTAPPALAM.
- Annexure A4** TRUE COPY OF THE GATE PASS DATED 20.09.2021 ISSUED BY THE SUPPLYCO TOWARDS THE TRANSPORTATION OF THE RICE TO CHANGANASSERY.
- Annexure A5** PHOTOGRAPHS OF THE OVERLOADED GOOD CARRIERS DURING THE 2ND WEEK OF SEPTEMBER 2021.