

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN
&
THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Friday, the 9th day of December 2022 / 18th Agrahayana, 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,
THIRUVANANTHAPURAM-695 003.
***ADDL.R6 & R7 IMPLEADED**
6. THE UNION OF INDIA,
REPRESENTED BY SECRETARY (RT&H),
MINISTRY OF ROAD TRANSPORT & HIGHWAYS, PARIVAHAN BHAVAN,
PARLIAMENT STREET, NEW DELHI-110 001

7. THE MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY,
GOVERNMENT OF INDIA, REPRESENTED BY SECRETARY (E & IT),
ELECTRONICS NIKETAN, 6, CGO COMPLEX, LODHI ROAD,
NEW DELHI – 110 003
*ARE SUO MOTU IMPEADED AS ADDITIONAL RESPONDENTS 6 AND 7
AS PER ORDER DATED 14/10/2022 IN SSCR 20/2021
*ADDL.R8 & R9 IMPEADED
8. SUDHEER A.,
(THE PRESIDENT), TOURIST BUS FEDERATION, THIRUVANANTHAPURAM
REG.NO.TVM/TC/683/2019, HAVING OFFICE AT: ASWATHY NILAYAM
ANNOOR, THIRUMALA P.O., THIRUVANANTHAPURAM, PIN-695006.
9. SHAKKEER
(THE SECRETARY), TOURIST BUS FEDERATION, THIRUVANANTHAPURAM
REG.NO.TVM/TC/683/2019, HAVING OFFICE AT: ASWATHY NILAYAM
ANNOOR, THIRUMALA P.O., THIRUVANANTHAPURAM, PIN-695006.
*ARE IMPEADED AS ADDL.RESPONDENTS 8 & 9 AS PER ORDER
DATED 14/10/2022 IN IA.NO.2/2022 IN SSCR.NO.20/2021
*ADDL.10 TO 12 IMPEADED
10. M/S.CONTRACT CARRIAGE OPERATORS ASSOCIATION
REG.NO.TVM/TC/1204/18, NALANDA BHAVAN
KARYAVATTOM, THIRUVANANTHAPURAM - 695 581
11. MILTON LOPEZ
MANAGING PARTNER, M/S.RANI TRAVELS, XL/1575
NORTH RAILWAY STATION ROAD, ERNAKULAM DISTRICT-682018
12. ROYSON JOSEPH
S/O.JOSEPH, M/S.ROYAL TOURS & TRAVELS
PADICKAPARAMBIL HOUSE, RAIL ROAD, ALUVA
ERNAKULAM DISTRICT - 683 101.
*ARE IMPEADED AS ADDL.RESPONDENTS 10 TO 12 AS PER ORDER
DATED 14/10/2022 IN IA.NO.3/2022 IN SSCR.NO.20/2021

***ADDL.R13 & R14 IMPEADED**

13. THE SECRETARY TO GOVERNMENT,
TRANSPORT DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM – 695 001
14. THE KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR, TRANSPORT BHAVAN, FORT,
THIRUVANANTHAPURAM –695023

***ARE SUO MOTU IMPEADED AS ADDITIONAL RESPONDENTS 13 AND 14
VIDE ORDER DATED 20/10/2022 IN SSCR 20/2021**

***ADDL.R15 IMPEADED**

15. EDRAAC
(ERNAKULAM DISTRICT RESIDENTS' ASSOCIATION'S APEX COUNCIL)
REG.NO.ER/735/03, CORPORATION SHOPPING COMPLEX,
SUBHASH CHANDRA BOSE ROAD JUNCTION, PONNURUNNI, VYTTILA,
COCHIN-19, PIN-682019.
- *IS IMPEADED AS ADDITIONAL 15TH RESPONDENT AS PER ORDER DATED
15.11.2022 IN I.A.NO.4/2022 IN SSCR 20/2021**
- BY SRI.G.BIJU, SC, TRAVANCORE DEVASWOM BOARD FOR R5
BY SRI.P.SANTHOSH KUMAR, SPECIAL GOVERNMENT PLEADER FOR R2
BY SRI.S.RAJ MOHAN, SENIOR GOVERNMENT PLEADER FOR R1,3 & 4
BY SRI.N.RAGHURAJ, AMICUS CURIAE FOR SABARIMALA SPECIAL
COMMISSIONER
BY SRI.S.MANU, DEPUTY SOLICITOR GENERAL OF INDIA FOR
ADDL.R6 & R7
BY M/S.B.A.ALOOR, K.P.PRASANTH, VISHNU DILEEP, T.S.KRISHNENDU,
ARCHANA SURESH and EMIL SHAJU, ADVOCATES FOR ADDL.R8 AND R9
BY SRI.G.HARIHARAN, ADVOCATE FOR ADDL.R10 TO R12.
BY M/S.ATUL SOHAN, SREEJA SOHAN K. and R.REJI (ATTINGAL),
Advocates for Addl.R15
BY SRI.DEEPUN THAKKAN, SC, KSRTC

HAVING PERUSED THE FINAL ORDER DATED 10/01/2022 AND ADDITIONAL ORDERS DATED 26/05/2022, 04/07/2022, 08/07/2022, 13/07/2022, 03/08/2022, 23/08/2022, 30/08/2022, 06/10/2022, 10/10/2022, 14/10/2022, 20/10/2022, 21/10/2022, 28/10/2022, 15/11/2022 and 30/11/2022 AND THE DIRECTIONS CONTAINED THEREIN AND ALSO HAVING PERUSED THE SUBMISSIONS MADE BY THE LEARNED SENIOR GOVERNMENT PLEADER, LEARNED SPECIAL GOVERNMENT PLEADER AND THE LEARNED DEPUTY SOLICITOR GENERAL FOR THE MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, THE COURT ON 09/12/2022 PASSED THE FOLLOWING.



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

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Dated this the 9th day of December, 2022

ORDER

Anil K. Narendran, J.

This report filed by the Special Commissioner, Sabarimala, regarding the functioning of Safe Zone Project, Sabarimala, by the Motor Vehicles Department was disposed of by the order dated 10.01.2022 [**2022 SCC OnLine Ker 1105 : CDJ 2022 Ker HC 203**] with the directions contained in paragraph 120 of the said order. The 2nd respondent Transport Commissioner and the 3rd respondent State Police Chief were directed to file action taken reports before this Court on or before 01.07.2022, which was directed to be placed before the Bench on 11.07.2022. Registrar General was directed to forward a copy of the order dated 10.01.2022 to the Secretary, Supreme Court Committee on Road Safety, for information.

2. In the order dated 26.05.2022 [**2022 SCC OnLine Ker 2906 : 2022 (4) KLT 934**] this Court noticed that, despite the directions contained in the order dated 10.01.2022, the Enforcement Officers under the 2nd respondent Transport Commissioner and the Police Officers under the 3rd respondent State Police Chief are not taking earnest efforts to ensure strict enforcement of the

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provisions under the Motor Vehicles Act, 1988, the Central Motor Vehicles Rules, 1989, the Kerala Motor Vehicles Rules, 1989 and the Motor Vehicles (Driving) Regulations, 2017, taking note of the law laid down in the decisions referred to in the said order dated 10.01.2022. After the order of this Court dated 10.01.2022, in motor accidents involving contract carriages, the passengers in those vehicles and other road users sustained serious/fatal injuries. Since the use of contract carriages on public place, flouting the safety standards prescribed in AIS-008 and AIS-052 (Rev.1) 2008, etc. is posing potential threat to the safety of the passengers and other road users, the learned Assistant Solicitor General of India was requested on 26.05.2022, to address arguments on behalf of the Ministry of Road Transport and Highways.

3. The orders of this Court dated 06.10.2022 [**2022 SCC OnLine Ker 4898**], 10.10.2022, 14.10.2022, 20.10.2022, 21.10.2022 and 28.10.2022 shall be read as part of this order.

4. On 30.11.2022, when this report came up for consideration, the learned Special Government Pleader was directed to make available for the perusal of this Court the inspection report along with colour photographs of contract carriage bearing Registration No.KL-74/3303, prepared in terms of the directions contained in the orders of this Court in this SSCR,

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which was taken into custody by the Enforcement Officers of the Motor Vehicles Department at Kochi, following a tip-off, and to furnish the details of the registered owner of contract carriages bearing Registration No.KL-74/3915 and KL-74/3303, the tour operator, the head of the educational institution and also the teachers who were in charge of the tour programme.

5. In the order dated 30.11.2022, we noticed that the said contract carriage, which was carrying 45 students from a school at Thiruvananthapuram was fitted with unauthorised LED lights capable of dazzling the drivers of oncoming vehicles directly, and also the drivers of the vehicles proceeding in front, indirectly, through rear-view mirrors and/or other reflecting surfaces of their vehicle. Graphics, stickers, sun control film, etc., were pasted on the safety glass. Stickers were pasted even on the windshield.

6. Today, when this matter is taken up for consideration, the learned Special Government Pleader has made available for the perusal of this Court, the report dated 03.12.2022 of the Regional Transport Officer (Enforcement) regarding the interception of contract carriage exhibiting Registration No.KL-74/3915, which was carrying 45 students from Thiruvananthapuram, without fitness certificate, insurance and payment of road tax.

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7. The learned Special Government Pleader would submit that he is yet to get a report regarding the details of the tour operator, the head of the educational institution and also the teachers who were in charge of that educational tour. The report dated 03.12.2022 of the Regional Transport Officer (Enforcement) and other materials shall be placed on record along with a memo by 13.12.2022. The learned Special Government Pleader would further submit that he is in receipt of the action taken report in respect of auto show/exhibitions at Government Engineering College, Wayanad and National Institute of Technology, Kozhikode, which shall be placed on record along with a memo by 13.12.2022.

8. The learned Deputy Solicitor General of India would submit that he has already received necessary instructions from the 6th respondent Ministry of Road Transport and Highways and the 7th respondent Ministry of Electronics and Information Technology. Detailed statements, based on the instructions already received, shall be placed on record by 13.12.2022.

9. In the order dated 14.10.2022, we have reproduced the screenshots of the transport vehicle owned and operated by KURTC exhibiting advertisements, figures, etc. causing distraction to the drivers of other vehicles. The said screenshot is reproduced hereunder;



10. The direction contained in paragraph 64 of the order dated 14.10.2022 reads thus;

64. Therefore, the Enforcement Officers in the Motor Vehicles Department and also the Police have to take necessary action against the vehicles owned/operated by KSRTC and KURTC which are used in public place after tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows of such vehicles, either by pasting any material upon the safety glass or by fixing sliding 'cloth curtains', etc. Action shall also be taken for exhibiting advertisements, figures, etc. causing distraction to the drivers of other vehicles and also cyclists and pedestrians on public road, flouting the statutory provisions referred to hereinbefore and also the directions contained in the judgment of this Court in **Saji K.M. [2019 (3) KHC 836]**.

11. The 2nd respondent Transport Commissioner, through the concerned Enforcement Officers in the Motor Vehicles Department shall ensure that two or three vehicles operated by KSRTC for Nilakkal-Pamba chain service, which are wrapped with advertisements as in the case of the vehicle in the photograph

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reproduced hereinbefore at paragraph 9, are not used for the transportation of pilgrims, openly flouting the prohibitory orders issued by this Court.

12. The report of the concerned Enforcement Officer, with the photographs of those vehicles shall be placed on record by 13.12.2022.

13. The learned Standing Counsel for KSRTC seeks time to get instructions from the Special Officer, who is in charge of Nilakkal-Pamba chain service.

List on 14.12.2022.



Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

AV/9/12