

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 25th day of August 2023 / 3rd Bhadra, 1945

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 IA.NO.4/2022 IN SSCR 20/2021**

***ADDL.R16 & R17 IMPEADED**

16. MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, NORTH BLOCK, NEW DELHI-110 001,
REPRESENTED BY ITS SECRETARY
17. THE COMMISSIONER OF CUSTOMS,
OFFICE OF COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE,
WILLINGTON ISLAND, COCHIN-682 009
- *ARE SUO MOTU IMPEADED AS ADDITIONAL RESPONDENTS 16 AND 17 VIDE
ORDER DATED 07/07/2023 IN SSCR.NO.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 M/S.G.HARIHARAN, PRAVEEN H., V.R.SANJEEV KUMAR and
K.S.SMITHA. ADVOCATE FOR ADDL.R10 TO R12.
BY ADV.GENTLE C.D.
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, 30/11/2022, 09/12/2022
17/12/2022 (ORDER NO.1), 17/12/2022 (ORDER
NO.2), 04/01/2023, 11/01/2023, 17/01/2023, 07/03/2023, 28/03/2023,
29/03/2023, 13/04/2023, 05/06/2023, 13/06/2023,
19/06/2023, 07/07/2023, 21/07/2023, 03/08/2023, 16/08/2023 &
21/08/2023, 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 25/08/2023
PASSED THE FOLLOWING:

APPENDIX OF SSCR.NO.20/2021

**ANNEXURE 1: ACTION TAKEN REPORT OF ALTERED VEHICLE EXHIBITED AT
WAYANAD ENGINEERING COLLEGE**

**ANNEXURE 2: LETTER DATED 19.05.2023 FROM TRANSPORT COMMISSIONER
TO ALL DEPUTY TRANSPORT COMMISSIONERS AND OTHER
OFFICERS IN THE ENFORCEMENT WING OF THE MOTOR
VEHICLES DEPARTMENT**

**ANNEXURE 3: LETTER DATED 23.05.2023 FROM TRANSPORT COMMISSIONER
TO THE SECRETARY TO GOVERNMENT, TRANSPORT (B)
DEPARTMENT**



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

SSCR No.20 of 2021

Dated this the 25th day of August, 2023

ORDER

Anil K. Narendran, J.

The Motor Vehicles Act, 1988 was enacted by the Parliament to consolidate and amend the law relating to motor vehicles, namely, the Motor Vehicles Act, 1939 to take into account, *inter alia*, the need for encouraging the adoption of higher technology in the automotive sector; laying down standards for the components and parts of motor vehicles; concern for road safety standards and pollution control measures, standards for transportation of hazardous and explosive materials; etc. Chapter VII of the Motor Vehicles Act deals with construction, equipment and maintenance of motor vehicles.

2. The Central Motor Vehicles Rules, 1989 made by the Central Government, in the exercise of the rule-making power under the relevant provisions of the Motor Vehicles Act, 1988 was published, vide notification dated 02.06.1989. Chapter V of the Central Motor Vehicles Rules deals with construction, equipment and maintenance of motor vehicles. As per sub-rule (1) of Rule 92, no person shall use or cause or allow to be used in any public place any motor vehicle which does not comply with the provisions of Chapter V.

3. Rule 100 of the Central Motor Vehicles Rules deals with

safety glass; Rule 102 deals with signalling devices, direction indicators and stop lights; Rule 103 deals with position of the indicator; Rule 104 deals with fitment of reflectors; Rules 104A to 104C deals with fitment of reflectors on construction equipment vehicles and combine harvesters, agricultural tractors and power tillers, respectively, Rule 105 deals with lamps; Rule 106 provides for deflection of lights; Rule 107 deals with top lights; Rule 108 deals with use of red, white or blue light; Rule 109 deals with parking lights; Rule 110 deals with lamps on three-wheelers; Rule 111 deals with prohibition of spot-lights, etc.; Rule 119 deals with horns; and Rule 120 deals with silencers.

4. In **Avishek Goenka v. Union of India [(2012) 5 SCC 321]**, after referring to the provisions under Rules 100, 104, 104A, 106, 119 and 120 of the Central Motor Vehicles Rules, the Apex Court held that the Central Motor Vehicles Rules deal with every minute detail of construction and maintenance of a vehicle. In other words, the standards, sizes and specifications which the manufacturer of a vehicle is required to adhere to while manufacturing the vehicle are exhaustively dealt with under the Rules. What is permitted has been specifically provided for and what has not been specifically stated would obviously be deemed to have been excluded from these Rules. It would neither be permissible nor possible for the Court to read into these statutory provisions, what is not specifically provided for. The provisions of the Central Motor Vehicles Rules demonstrate the extent of

minuteness in the Rules and the efforts of the framers to ensure, not only the appropriate manner of construction and maintenance of vehicles but also the safety of other users of the road. The Apex Court noticed that the legislative intent attaching due significance to 'public safety' is evident from the object and reasons of the Motor Vehicles Act, the provisions of the said Act and more particularly, the Central Motor Vehicles Rules framed thereunder.

5. The Special Commissioner, Sabarimala filed SSCR No.20 of 2021 regarding the functioning of the Safe Zone Project, Sabarimala by the Motor Vehicles Department. The SSCR filed by the Special Commissioner was disposed of by the order dated 10.01.2022 **[2022:KER:1354 : 2022 SCC OnLine Ker 1105]** with the directions contained in paragraph 120 of that 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. The 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.

6. In the order dated 26.05.2022 in this SSCR **[2022 (4) KLT 934 : 2022 SCC OnLine Ker 2906]** this Court noticed that, despite the directions contained in the order dated 10.01.2022 **[2022:KER:1354]**, 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 provisions under the Motor Vehicles Act, the Central Motor Vehicles Rules, 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 in public places, flouting the safety standards prescribed in AIS-008 and AIS-052 (Rev.1) 2008, etc., is posing a 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. In this SSCR, this Court passed an order dated 06.10.2022 [**2022 SCC OnLine Ker 4898**], which was followed by the orders dated 10.10.2022, 14.10.2022, 20.10.2022, 21.10.2022, 28.10.2022 and 29.03.2023.

7. On 29.03.2023, when this SSCR came up for consideration, the learned Senior Government Pleader made available for the perusal of this Court the accident analysis report dated 29.03.2023 prepared by the Regional Transport Officer (Enforcement), Pathanamthitta, regarding the accident that occurred on 28.03.2023, involving a

contract carriage bearing Registration No.TN-68/E-1999. As per the report, the accident occurred when the vehicle reached Elavunkal 3rd curve near Naranamthodu on Elavunkal-Kanamala Road. In the accident, 2 pilgrims sustained grievous injuries and 50 pilgrims including 9 children sustained minor injuries. All the injured passengers were taken out in the rescue operation by the Police, the Fire and Rescue Services and the Motor Vehicle Department, with the support of the local people. Those who sustained grievous injuries were admitted to the Medical College, Kottayam and others were admitted to the General Hospital, Pathanamthitta and the Government Hospital, Nilakkal. The vehicle was recovered using a crane. As per the report of the Regional Transport Officer (Enforcement), Pathanamthitta, the vehicle was driven at excess speed, engaging improper gear, without considering the nature and condition of the road. Due to the dearth of air in the air-breaking system, the vehicle lost breaking capacity. As per the report, sign boards indicating 'sharp curve', 'speed limit' and 'curve ahead' are not provided on the road. There is a requirement for speed reduction measures, which have to be implemented by the Public Works Department. It was suggested in the report that the drivers of inter-state buses coming to Sabarimala have to be informed about the conditions of Ghat roads at the border check posts.

8. After referring to the provisions under the Kerala Motor Vehicles Rules, 1989, Andhra Pradesh Motor Vehicles Rules, 1989, Tamil

Nadu Motor Vehicles Rules, 1989, Karnataka Motor Vehicles Rules, 1989 and also the provisions under the Central Motor Vehicles Rules, 1989, it was held in the order dated 29.03.2023, that in view of the provisions under sub-rule (1) of Rule 92 of the Central Motor Vehicles Rules, sub-rule (1) of Rule 249 of the Kerala Motor Vehicles Rules and similar provisions contained in the Rules framed by other States no person shall use or cause or allow to be used in any public place a motor vehicle which does not comply with the provisions contained in Chapter V of the Central Motor Vehicles Rules, which deals with construction, equipment and maintenance of motor vehicles, and the provisions contained in the respective Rules framed by the States, which deals with construction, equipment and maintenance of motor vehicles. Therefore, the directions contained in the order of this Court dated 10.01.2022 **[2022:KER:1354]** and the subsequent orders in this SSCR have application in respect of all transport vehicles and other motor vehicles used in public places, irrespective of the State of Registration, i.e., irrespective of whether such vehicles are registered with the Registering Authorities in the State of Kerala or with the Registering Authorities in another State or Union Territory.

9. By the order dated 29.03.2023 in this SSCR, the officers in the Enforcement Wing of the Motor Vehicles Department and also the Police were directed to take stringent action against all transport vehicles and other motor vehicles used in public places, which do not

comply with the statutory provisions regarding construction, equipment and maintenance of motor vehicles, irrespective of the State of registration (irrespective of whether such vehicles are registered with the Registering Authorities in the State of Kerala or with the Registering Authorities in another State or Union Territory), in view of the provisions contained in sub-rule (1) of Rule 92 of the Central Motor Vehicles Rules, sub-rule (1) of Rule 249 of the Kerala Motor Vehicles Rules and similar provisions contained in the rules framed by other States, since no person shall use or cause or allow to be used in any public place a motor vehicle which does not comply with the provisions contained in Chapter V of the Central Motor Vehicles Rules and the provisions contained in the respective Rules framed by the States, which deals with construction, equipment and maintenance of motor vehicles.

10. In **S. Rajaseekaran v. Union of India [(2018) 13 SCC 516]** the Apex Court made it explicitly clear that all States and Union Territories are expected to implement the Road Safety Policy with due earnestness and seriousness and that, the provisions under the Motor Vehicles (Driving) Regulations, 2017 should be implemented by the State Governments and Union Territories strictly.

11. In the order dated 26.05.2022 in this SSCR **[2022 (4) KLT 984]** this Court held that a transport vehicle governed by AIS-008 [Installation Requirements of Lighting and Light-Signalling Devices for Motor Vehicle having more than Three Wheels including Quadricycles,

Trailer and Semi-Trailer excluding Agricultural Tractor], 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, cannot be granted fitness certificate, since such a vehicle cannot be treated as a vehicle which complies with the provisions of the Motor Vehicles Act and the Rules made thereunder, for the purpose of grant of certificate of fitness. In case, a fitness certificate is granted to any such vehicle, which cannot be treated as a vehicle that complies with the provisions of the Motor Vehicles Act and the Rules made thereunder, the certificate of fitness granted to that vehicle is liable to be cancelled at any time, in accordance with the provisions under sub-section (4) of Section 56 of the Motor Vehicles Act, for reasons to be recorded in writing, if the prescribed authority is satisfied that the vehicle no longer complies with all the requirements of the said Act and the Rules made thereunder. 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 the security deposit, after affording the holder of the letter of authority an opportunity of being heard.

12. In the order dated 26.05.2022 in this SSCR **[2022 (4) KLT 984]** this Court held that as per sub-section (4) of Section 182A of the Motor Vehicles Act, whoever, being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the Rules and Regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine of five thousand rupees per such alteration or with both. As per sub-section (2) 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 standards prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months and for any second or subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both.

13. In exercise of the powers conferred by sub-section (1) of Section 200 of the Motor Vehicles Act and in supersession of the notification issued under G.O.(P) No.30/2019/Trans. dated 31.08.2019, the State of Kerala published as S.R.O.No.788/2019 in the Kerala Gazette Extraordinary No.2577 dated 26.10.2019. Sl.No.14 of the

Schedule to the said notification reads thus;

Sl.No.	Penal Provision	Description	Amount (Rs.)
14	Sec.182A(4)	Being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the rules and regulations made thereunder.	5,000 per such alteration

14. In the order dated 26.05.2022 in this SSCR **[2022 (4) KLT 984]** this Court directed the Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department and the State Police Chief, through the District Police Chief of the concerned Districts to prevent the use of contract carriages and other transport vehicles in public place, flouting the safety standards prescribed in AIS-008, after replacing the prototype approved lights, light-signalling devices and reflectors with after-market multi-coloured LED/laser/neon lights, flashlights, etc. and 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.

15. In the order dated 13.04.2023 in this SSCR this Court noticed that video contents of the alterations made on contract carriages and goods vehicles and use of such vehicles in public places are being uploaded on online video platforms like 'YouTube', by the registered owners of such vehicles or by vloggers. A few screenshots of vehicles which are fitted with after-market multi-coloured

LED/laser/neon lights, flashlights, etc., openly flouting the safety standards prescribed in AIS-008, capable of dazzling the drivers of the oncoming vehicles, pedestrians and other road users, thereby posing a potential threat to the safety of other road users, reproduced in paragraph 15 of the order dated 13.04.2023 in this SSCR, are reproduced hereunder;





16. AIS-008 deals with Installation Requirements of Lighting and Light-Signalling Devices for Motor Vehicle having more than Three Wheels including Quadricycles, Trailer and Semi-Trailer excluding Agricultural Tractor. As per Para.5.1. of AIS-008, only those lighting and light signalling devices referred to in 6.0 of the standards shall be permitted to be installed on motor vehicles. In view of the provisions contained in Para. 5.16.1. of AIS-008, the number of lamps mounted on the vehicle should be equal to the number(s) specified in each of Para.6.1. to Para.6.20.

17. In **Principal, Sabari PTB Smaraka H.S.S. v. Additional Registering Authority and others [2020 (2) KLJ 662]** this Court noticed that the provisions of AIS-008 deal with every minute detail of installation of lighting, light-signalling devices and retro-reflectors for a

motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle. The lighting, light-signalling devices and retro-reflectors permitted to be installed on such motor vehicles have been specifically provided for in AIS-008. In the said decision, relying on the law laid down by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]**, this Court held that in view of the prohibition contained in Para.5.1, no such motor vehicle shall be permitted to be installed with any lighting and light-signalling devices or retro-reflectors, other than those referred to in Para.6.0 of AIS-008. In the said decision, this Court.

18. In the order dated 13.04.2023 in this SSCR, this Court noticed that the use of a motor vehicle in a public place without complying with the installation requirements of lighting and light-signalling devices and also retro-reflectors in AIS-008 [Motor Vehicle having more than Three Wheels including Quadricycles, Trailer and Semi-Trailer excluding Agricultural Tractor] is likely to endanger the safety of other road users. In the said order, it was ordered that motor vehicles which are fitted with after-market multi-coloured LED/laser/neon lights, flashlights, etc., as seen in the screenshots reproduced hereinbefore, which are being used in a public place, openly flouting the safety standards prescribed in AIS-008, which are capable of dazzling the drivers of the oncoming vehicles, pedestrians and other road users, thereby posing a potential threat to the safety of other road users, have

to be dealt with in an appropriate manner, strictly in accordance with the law. In addition to the penal consequences provided in the statutory provisions, the owner of the vehicle has to be imposed with a fine of **Rs.5,000/- per such alteration**; i.e, Rs.5,000/- for each after-market multi-coloured LED/laser/neon lights, flashlights, as per the provisions under sub-section (4) of Section 182A of the Motor Vehicles Act, read with S.R.O.No.788/2019 published in the Kerala Gazette Extraordinary No.2577 dated 26.10.2019. Such vehicles cannot be treated as vehicles which comply with the provisions of Chapter V of the Motor Vehicles Act, which deals with construction, equipment and maintenance of motor vehicles. In view of the prohibition contained in sub-rule (1) of Rule 92 of the Central Motor Vehicle Rules, no person shall use or cause or allow to be used in any public place any such motor vehicle. By the order dated 13.04.2023 in this SSCR, 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, are directed to take stringent action against such vehicles, including Government vehicles, by imposing fine strictly in terms of the statutory mandate of sub-section (4) of Section 182A of the Motor Vehicles Act, read with the aforesaid Government notification, since the use of a motor vehicle in a public place flouting the safety standards prescribed in AIS-008 is posing potential threat to the safety of the passengers and other road

users. In view of the prohibition contained in sub-rule (1) of Rule 92 of the Central Motor Vehicle Rules, they were directed to take stringent action against such vehicles, irrespective of the State of registration of such vehicles.

19. In the order dated 14.10.2022 in this SSCR, this Court noticed that vehicles which are not roadworthy and even altered vehicles without registration are being brought to the college campus, in connection with auto shows, exhibitions, etc., for drifting and other performances, posing threat to the safety of students. On 14.10.2022 this Court viewed in open court a video uploaded on 'YouTube' by a vlogger by the name 'Moto Vlogger' of cars brought to India through 'Carnet' for drifting and similar performances. The said vehicles have undergone extensive modifications, posing a threat to the safety of other road users, which is evident from the video content, emitting fumes, thick smoke and loud sound from the exhaust. A few screenshots of such vehicles, reproduced in paragraphs 34 and 36 of the order dated 14.10.2022, are reproduced hereunder;





20. On 14.10.2022, when this SSCR came up for consideration, the learned Deputy Solicitor General of India sought time to get instructions from the Ministry of Road Transport and Highways as to whether 'the roadworthiness' of the vehicles imported through 'Carnet', i.e., whether such vehicles are fitted with unauthorised fittings or whether there are alterations to the original specifications by the

manufacturer are being verified through a proper agency or the concerned Enforcement Officers in the Motor Vehicles Department, before such vehicles leave the area of the respective Ports. The learned Deputy Solicitor General of India was directed to get instructions from the concerned Ministry/officer, the details of the vehicles brought to Kerala through 'Carnet'.

21. In the order dated 28.10.2022 in this SSCR, this Court found that in view of the provisions under sub-section (2) 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 standards prescribed in relation to road safety, control of noise and air pollution, shall be punishable for the first offence with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding the licence for a period of three months and for any second or subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both. The certificate of registration of a vehicle which had undergone extensive modifications and alterations and fitted with unauthorised lights and light-signalling devices flouting the safety standards in AIS-008, unauthorised exhaust system emitting fumes, thick smoke and loud sound violating the standards prescribed in relation to road safety, control of noise and air pollution, after-market

suspension/air suspension, wide tyres protruding out of wheel arches/mudguards, etc. posing potential threat to the safety of its passengers and other road users is liable to be cancelled. The driving licence of the driver who had driven such a vehicle in public places has to be suspended for a period of three months, as per the statutory mandate of sub-section (2) of Section 190, which shall be forwarded to the licensing authority for disqualification or revocation proceedings, under Section 19 of the Act. Use of such vehicles in public places shall be dealt with appropriately by initiating prosecution. Such vehicles shall be produced before the jurisdictional Magistrate Court along with colour photographs and video showing the statutory violations and further proceedings regarding custody of those vehicles shall be taken based on the orders of that court.

22. In the order dated 28.10.2022 in this SSCR, this Court found that the aforesaid provisions will certainly attract when a motor vehicle brought to India through Carnet, which is fitted with exhaust system emitting fumes, thick smoke and loud sound violating the standards prescribed in relation to road safety, control of noise and air pollution, after-market suspension/air suspension, wide tyres protruding out of wheel arches/mudguards, etc. is used in public place, posing potential threat to the safety of other road users. The driving licence of the driver of such a vehicle has to be suspended for a period of three months, as per the statutory mandate of sub-section (2) of

Section 190, which shall be forwarded to the licensing authority for disqualification or revocation proceedings, under Section 19 of the Act. As in the case of a motor vehicle which is registered under the provisions of the Motor Vehicles Act and the Rules made thereunder, the use of such a vehicle brought to India through Carnet in public place, posing potential threat to the safety of other road users, shall be dealt with appropriately by initiating prosecution. Such a vehicle shall also be produced before the jurisdictional Magistrate Court along with colour photographs and video showing the statutory violations and further proceedings regarding custody of those vehicles shall be taken based on the orders of that court. The officers in the Enforcement Wing of the Motor Vehicles Department and also the Police shall take strict action against the use of such vehicles in public places, by proceeding against its owner and driver and also the vloggers who promote the use of such vehicles by posting vlogs on 'YouTube' and other online media.

23. By the order dated 28.10.2022 in this SSCR, this Court directed the Officers in the Enforcement Wing of the Motor Vehicles Department and also the Police to take action against the vehicles involved in the auto show/exhibition at the Government Engineering College, Wayanad, which was held on 15.10.2022 and 16.10.2022 and at the National Institute of Technology, Kozhikode, which was held on 21.10.2022 and also against the owner and driver of such vehicles, as directed in paragraph 14 of the said order, after identifying such vehicles

from the video contents (two videos relating to the National Institute of Technology, Kozhikode and one video relating to the Government Engineering College, Wayanad) in the compact disc. The action taken report of the 2nd respondent Transport Commissioner on the above aspect was directed to be placed on record.

24. After the order of this Court dated 13.04.2023 in this SSCR, an action taken report dated 07.06.2023 by the 2nd respondent Transport Commissioner was placed on record along with a memo dated 07.07.2023 of the learned Special Government Pleader, pointing out the action taken against a contract carriage bearing registration No.KL-06/H-1411 referred to in paragraph 31 of the order dated 14.10.2022, and also the vehicles involved in the auto show in Government Engineering College, Wayanad and National Institute of Technology, Kozhikode. Along with the action taken report, Annexure 1 report on 17 vehicles involved in the auto show at the Government Engineering College, Wayanad and the National Institute of Technology, Kozhikode on 15.10.2022 and 16.10.2022 is placed on record. Those vehicles were identified from YouTube footage. Among the said vehicles, 16 vehicles were fined and against 11 vehicles FIR has been filed before the concerned Magistrate Court by Thodupuzha Police. In the action taken report, it is stated that the Regional Transport Officer, Idukki conducted an inspection of contract carriage bearing registration No.KL-06/H-1411 and submitted a report dated 28.10.2022, wherein it is stated that at

the time of inspection, the unauthorised lights and blinking lights were seen removed from the driver's cabin, passenger compartment and external body of the said contract carriage. The screenshots of contract carriage bearing registration No.KL-06/H-1411 taken from the video posted by 'Focus Builders', Kottappady, which were reproduced in paragraph 31 of the order dated 14.10.2022 are reproduced hereunder;



In the action taken report dated 07.06.2023 of the 2nd respondent Transport Commissioner, it is stated that Annexure 2 letter dated 19.05.2023 has been issued to all Deputy Transport Commissioners and other officers in the Enforcement Wing of the Motor Vehicles Department to initiate appropriate action against the owner and driver of motor vehicles and also the vloggers who promote the use of such vehicles by posting vlogs in YouTube and other online media, in terms of the directions contained in paragraphs 26 and 27 of the order of this Court dated 13.04.2023 in this SSCR. By Annexure 3 letter dated 23.05.2023, the Secretary to Government, Transport (B) Department was informed that the directions contained in paragraph 26 of the order of this Court dated 13.04.2023 in this SSCR is to take stringent action against vehicles, including Government vehicles, which are being used in public place without complying with the safety standards in AIS-008, which are fitted with after-market multi-coloured LED/laser/neon lights/flashlights, etc. In addition to the penal consequences provided in the statutory provisions the owner of the vehicle has to be imposed with a fine of Rs.5,000/- per such alteration, i.e., Rs.5,000/- for each after-market multi-coloured LED/laser/neon lights/flashlights, etc. Therefore, it was requested that the order of this Court in this SSCR may be brought to the notice of all the Administrative Departments to ensure that all Government vehicles are complying with the safety standards in AIS-008.

25. Along with a memo dated 11.08.2023 of the learned Special Government Pleader, a report dated 10.08.2023 of the Joint Regional Transport Officer, Changanassery regarding an incident which occurred on 08.08.2023 at Vagathanam, in which a motor car bearing registration No.KL-37/C-0018 was burned, resulting in the death of its driver, is placed on record. Along with another memo dated 11.08.2023, the report of the Joint Regional Transport Officer, Mavelikkara regarding another incident which occurred on 07.08.2023 at Kandiyoor Ambalamukku, in which another motor car bearing registration No.KL-31/L-3639 was burned resulting in the death of its driver, is placed on record. During the course of arguments, the learned Special Government Pleader would submit that the scientific investigation is going on to find out the cause of those incidents. Along with another memo dated 11.08.2023 of the learned Special Government Pleader a report of the Station House Officer, Muvattupuzha Police Station regarding an accident which occurred in Muvattupuzha-Thodupuzha Road at Nirmala College Junction on 26.07.2023 involving a motorcycle bearing registration No.KL-40/J-0486, resulting in the death of Namitha, aged 20 years and injury to Anusree, aged 20 years, the students of Nirmala College is placed on record. The Vehicle Accident Inspection Report dated 29.07.2023 of the Motor Vehicles Inspector (Enforcement), Regional Transport Office, Ernakulam, which is enclosed along with the report of the Station House Officer, would show that the registration

mark on the rear side of that motorcycle is exhibited, after making alterations on the rear side of that vehicle. The motorcycle was not even fitted with mudguard for the rear wheel. It appears that the lights, light-signalling devices and mudguard provided by the manufacturer on the rear of the motorcycle and even the fittings for exhibiting the registration mark are removed. The registration mark of that motorcycle is not exhibited at the appropriate place provided by the manufacturer and as per the requirements of the Central Motor Vehicles Rules.

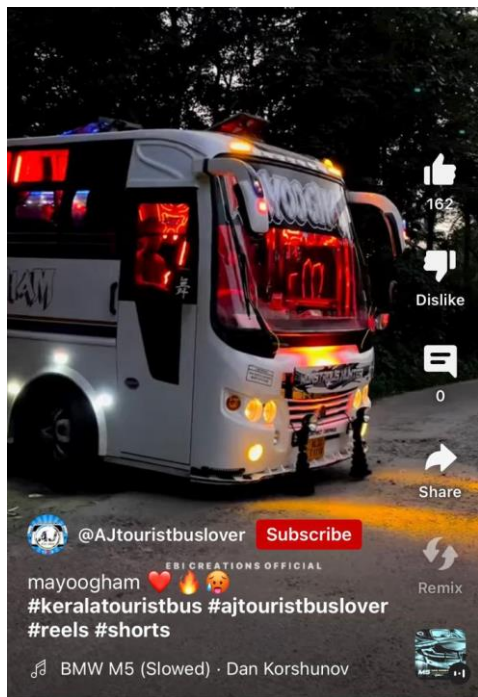
26. It is pertinent to note that the order dated 10.10.2022 in this SSCR was one passed in connection with a motor accident which occurred on 05.10.2022 at Anchumoorthy Mangalam in Palakkad District, involving a contract carriage bearing registration No.KL-05/AU-8890 carrying students from Mar Baselios School, Mulanthuruthy, who were on a study tour to Ooty. At the place of accident, the said contract carriage hit the rear of a KSRTC bus bearing registration No.KL-15/A-1313. In that accident, 9 persons (5 students and 1 teacher in the contract carriage and 3 passengers in the KSRTC bus) sustained fatal injuries. In the order dated 10.10.2022, this Court noticed from the accident investigation report dated 08.10.2022 of the Motor Vehicles Department and the photographs enclosed therewith that the said contract carriage was fitted with unauthorised multi-coloured LED lights, rotating flashlights, DJ lights, laser lights, fog machine, high wattage speakers and woofers. The passenger compartment of that vehicle was

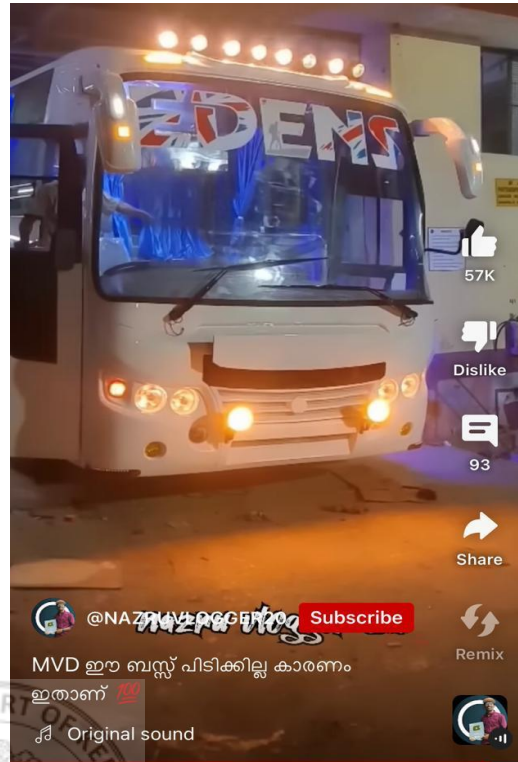
converted into a dancing floor. The unauthorised lights fitted in that vehicle will cause distraction to the driver of that vehicle and also to other road users. Various objects were placed or hanged in front of the windscreen and the name of the bus was written in the middle of the windscreen, above the level of the dashboard, causing obstruction to the clear vision of the driver. The screenshots reproduced in paragraphs 3 and 6 of the order dated 10.10.2022 of contract carriage bearing registration No.KL-05/AU-8890 are reproduced hereunder;



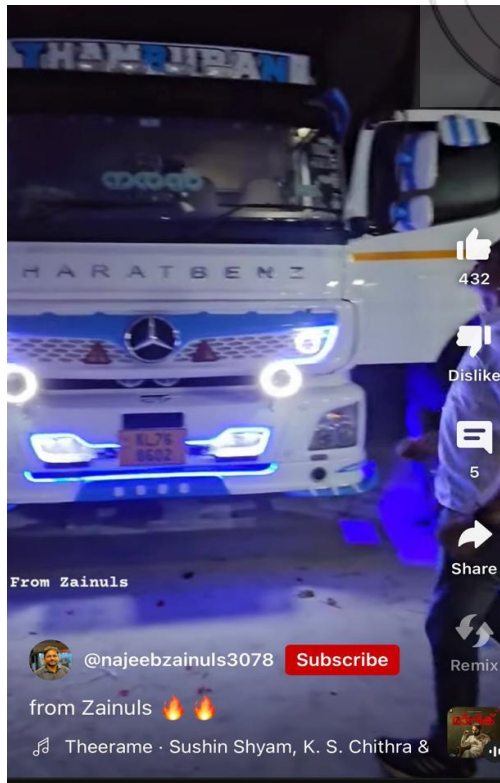


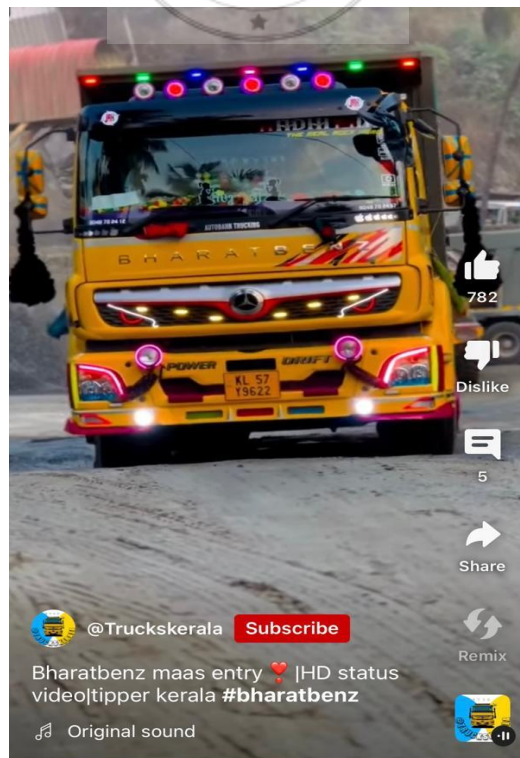
27. On 21.08.2023, when this SSCR came up for consideration, this Court heard the arguments of the learned Special Government Pleader, the learned Senior Government Pleader and also the learned Deputy Solicitor General of India. We have also viewed in open Court the videos posted on YouTube of vehicles with extensive modifications causing threat to the safety of public, which includes contract carriages, goods carriages and also vehicles brought to India through Carnet. A few screenshots of such altered vehicles are reproduced hereunder;





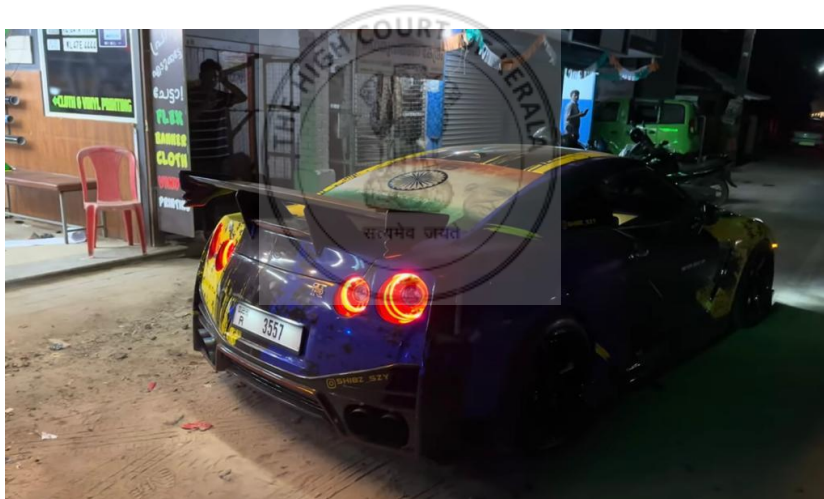
2.2K







Independence Day ഖെരിവാടിക് GTR
Flag അടിച്ചു 🥰
Moto Vlogger · 8.6K views · 2 hours ago



28. The screenshots of motor vehicles taken from the videos posted by vloggers by name 'AJ Tourist Bus Lover', 'Nazru Vlogger' and 'Najeeb Zainuls' would make it explicitly clear that even after the order of this Court dated 13.04.2023 in this SSCR, contract carriages are being used in public place without complying with the safety standards in AIS-008 and that prescribed in AIS-052 (Rev.1) 2008, posing potential threat to the safety of the passengers and also other road users. Goods vehicles are being used in public place which are fitted with unauthorised after-market multi-coloured LED/laser/neon lights/flashlights, etc., which are capable of dazzling the drivers of oncoming vehicles, pedestrians and other road users. In addition to this, as evident from the screenshots from the video posted by the vlogger by name 'Motor Vlogger', vehicles which had undergone extensive modifications and alterations, which are fitted with LED/laser/neon lights, flashlights, etc. capable of dazzling the drivers of oncoming vehicles, pedestrians and other road users, are being used in public place, posing potential threat to the safety of other road users. The motor car seen in the screenshots reproduced hereinbefore, which is brought to India through Carnet which bears the registration mark 'DUBAI R 3557' is fitted with an exhaust system emitting fumes and loud sound.

29. During the course of arguments, the specific stand taken by the Deputy Solicitor General of India, on instructions, is that vehicles

fitted with exhaust system emitting fumes and loud sound, wide tyres protruding out of wheel arches/mudguards, etc. cannot be permitted to be used in public place, posing a potential threat to the safety of its passengers and other road users. In case, any such violations are noticed, the Enforcement Wing of the Motor Vehicles Department and the Police can proceed against the owner/driver of the said vehicle.

30. In the above circumstances, it is for the police and the Enforcement Wing of the Motor Vehicles Department to proceed against the vehicles brought through Carnet, in case such vehicles are fitted with exhaust system emitting fumes and loud sound, wide tyres protruding out of wheel arches, mudguards, etc. The owner/driver of the vehicles brought through Carnet shall be proceeded against for the use of such vehicles in public place in violation of the restrictions regarding its use in India.

31. The learned Special Government Pleader and also the learned Senior Government Pleader would submit that preliminary meetings regarding the functioning of the Safe Zone Project in connection with Mandala-Makaravilakku festival season of 1199 ME (2023-24) have already been convened. The police and the Enforcement Wing of the Motor Vehicles Department shall ensure strict compliance of the directions contained in the orders of this Court in this SSCR, in order to ensure the safety of pilgrims and also other road users. The learned Senior Government Pleader would point out that during the

previous festival season of 1198 ME (2022-23), the daily footfall at Sabarimala Sannidhanam had crossed 1 lakh pilgrims per day on several occasions. Therefore, appropriate measures shall be taken, well in advance to ensure smooth and safe movement of Sabarimala pilgrims during the festival season of 1199 ME.

32. In terms of the directions contained in the order dated 13.04.2023 in this SSCR, the 2nd respondent Transport Commissioner, through the concerned 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 stringent action against vehicles, including Government vehicles, which are being used in a public place without complying with the safety standards in AIS-008. Stringent action shall be taken against the use of altered vehicles in public places, including vehicles brought through Carnet. All such vehicles shall be proceeded against strictly in terms of the directions contained in paragraphs 26 and 27 of the order dated 13.04.2023. The vehicles in the screenshots reproduced hereinbefore at paragraph 27 shall also be proceeded against, strictly in terms of the above directions. Appropriate proceedings shall be initiated against the owner and driver of such vehicles and also the vloggers who promote the use of such vehicles by posting vlogs on YouTube and other online media.

33. The Special Commissioner, Sabarimala is directed to file a

fresh report regarding the functioning of Safe Zone Project by the Motor Vehicles Department during Mandala-Makaravilakku festival season of 1199 ME (2023-24), enclosing therewith a copy of the order dated 26.05.2022 [2022 (4) KLT 934], the order dated 13.04.2023 and also a copy of this order.

In the said SSCR, the State of Kerala, represented by the Chief Secretary to Government; the Secretary to Government, Transport Department; the Transport Commissioner, Kerala; the State Police Chief, Kerala; the District Police Chief, Pathanamthitta; the Travancore Devaswom Board, represented by its Secretary; the Union of India, represented by Secretary (RT&H), Ministry of Road Transport and Highways; and the Kerala State Road Transport Corporation, represented by its Chairman and Managing Director shall be arrayed as respondents.

Sd/-
ANIL K. NARENDRAN,
Judge

Sd/-
P.G. AJITHKUMAR,
Judge

bkn/-