

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Thursday, the 6th day of October 2022 / 14th Aswina, 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.

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

BY THE SPECIAL GOVERNMENT PLEADER FOR R2

BY THE 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

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 AND 30/08/2022 AND THE DIRECTIONS CONTAINED
THEREIN FOR FILING ACTION TAKEN REPORT 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 06/10/2022
PASSED THE FOLLOWING.

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

SSCR No.20 of 2021

Dated this the 6th day of October, 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 said order to the Secretary, Supreme Court Committee on Road Safety for information. 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 provisions under the Motor Vehicles Act and the Rules and Regulations made thereunder, taking note of the law laid down in the decisions referred to supra and also in the order

of this Court dated 10.01.2022. Though, by the order dated 10.01.2021, 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 were directed to be placed before the Bench on 11.07.2022, we have directed Registry to list this matter before Bench on 26.05.2022, since for the last few months several contract carriages were involved in major accidents, in which the passengers in those vehicles and other road users sustained serious/fatal injuries. Since the use of such vehicles on public place is posing potential threat to the safety of the passengers and other road users, the learned Assistant Solicitor General of India was requested to address arguments on behalf of the Ministry of Road Transport and Highways. We viewed in open court a few video clippings of motor accidents involving contract carriages and use of contract carriages fitted with unauthorised LED/laser/neon lights in public place, downloaded from 'YouTube'.

2. The order dated 10.01.2022 was followed by the order dated 26.05.2022 [**2022 (4) KLT 934**]. Paragraphs 46 to 54 of that order read thus:

"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 dashboard, causing obstruction to 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 Section 88 of the Motor Vehicles (Amendment) Act, 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 concerned Enforcement Officers, the use of motor 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'.

52. Registry to issue copy of this order to the learned Assistant Solicitor General of India, learned Special Government Pleader and also to the learned Senior Government Pleader.

53. Registry to mail a soft copy of this order to the e-mail id of the 2nd respondent Transport Commissioner (tcoffice.mvd@kerala.gov.in/tc.mvd@kerala.gov.in) and the 3rd respondent State Police Chief (dgp.pol@kerala.gov.in), who shall forward the same to the concerned Enforcement Officers in the Motor Vehicles Department/District Police Chief of the concerned Districts, for ensuring strict compliance.

54. Registrar General shall forward a copy of this order along with compact disc containing the video clippings to the Secretary of Supreme Court Committee on Road Safety for information.”

3. By order dated 04.07.2022, the learned Special Government Pleader was directed to get instructions as to whether the directions contained in the order dated 26.05.2022 are being complied with in letter and spirit by the Enforcement Officers in the Motor Vehicles Department and also Police officers. On 08.07.2022, when this Report came up for consideration, the learned Special Government Pleader sought time to get instructions from the concerned officers as to whether the colour photographs and video clippings of the exterior body, the driver cabin and passenger cabin of the contract carriage involved in the incident that occurred at Perumon Engineering College, Kollam, form part of the inspection report and whether proceedings have already been initiated

against the drivers, who had driven the said contract carriages and the owner, who had allowed the contract carriages to be driven in a public place, for flouting the safety standards in AIS-008 and the standards prescribed in relation to control of noise.

4. In the order dated 30.08.2022, this Court has made it clear that the inaction on the part of the Enforcement Officers in the Motor Vehicles Department and also the Police in taking action against motor vehicles used on public place flouting the safety standards regarding the lighting and light signalling devices and also the standards prescribed in relation to control of noise, shall be taken serious note of. In the said order, it was noticed that a copy of the order dated 26.05.2022 of this Court has already been mailed to the e-mail ID of the 2nd respondent Transport Commissioner and the 3rd respondent State Police Chief, by Registry, in terms of the directions contained in paragraph 53 of the said order, and the 2nd and 3rd respondents were directed to forward the same to the concerned Enforcement Officers in the Motor Vehicles Department/District Police Chief of the concerned Districts, for ensuring strict compliance. By the order dated 30.08.2022, the learned Assistant Solicitor General of India was directed to get instructions from the Secretary, Ministry of Road Transport and Highways as to the action that can be taken against the vloggers and others, who are uploading videos in 'YouTube' and other online platforms, promoting the

use of motor vehicles on public place, flouting the safety standards, posing potential threat to the safety of passengers and other road users.

5. Though, by the order dated 30.08.2022, this Report was ordered to be listed on 07.10.2022 at 4:00 p.m. for further consideration, we have directed Registry to list this matter before the Bench at 11:00 a.m., in view of a motor accident which occurred at Anchumoorthy Mangalam in Thrissur District involving a contract carriage carrying students from Mar Baselios School, Mulanthuruthy, who were on a study tour to Ooty. At the place of accident, the said vehicle hit at the rear of a KSRTC bus. In that accident 9 persons (5 students and 1 teacher in the contract carriage and 3 passengers in KSRTC bus) sustained fatal injuries. The video taken at the time of commencement of journey at Mar Baselios School, Mulanthuruthy is shown in the news item that appeared in Mathrubhumi news (online). A few screen shots taken from that video clippings of the contract carriage are re-produced hereunder:





6. We have viewed the said video clipping and also screen shots in the open Court. The said video clipping and screen shots would make it explicitly clear that the contract carriage in question was used in public place flouting the safety standards prescribed in AIS-008. Various materials are placed on the safety glass of the contract carriage. The name of the

contract carriage is written in the middle of the wind-screen above the level of the dash board, obstructing the clear vision of the driver. The said vehicle is fitted with multi-toned horn giving a succession of different notes, in violation of sub-rule (2) of Rule 119 of the Central Motor Vehicles Rules. The passenger cabin is fitted with multi-coloured LED/Laser/Neon lights, flash lights, etc. The said vehicle is fitted with high-power audio system producing loud sound, impairing the hearing of the driver and the passengers, and causing distraction to other road users. The driver cabin of the said vehicle is fitted with LED/Laser/Neon lights and also booster amplifiers, equalisers, etc., with illuminated control panels, causing glare and reflection of light on the wind-screen, endangering the safety of passengers and other road users.

7. Along with the action taken report dated 12.07.2022 filed on behalf of the 2nd respondent Transport Commissioner, a copy of communication dated 07.07.2022 of the Transport Commissioner, addressed to the Directors of Higher Secondary Education, Technical Education, Medical Education and Higher Education Departments, is placed on record, whereby the concerned officers were directed to ensure that contract carriages with unauthorised fittings, high-power audio system, etc., are not used for carrying students in connection with study tour. The screen shot of an advertisement released by a vlogger regarding tour


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packages for school and college students in contract carriages with unauthorised fittings, high-power audio system, etc., flouting safety standards, is extracted hereunder;



8. Even after the orders of this Court various vloggers are posting such promotion videos/posts in 'YouTube' and other online platforms. A few screen shots of such promotion videos/posts are re-produced hereunder;




 **KOMBAN ADDICTERZ · SUBSCRIBE**
24 minutes ago

BIG BROTHER BACK ON ROAD ❤️⚡



👍 230 💬 📧

 **MASTER ALBY · SUBSCRIBE**
10 hours ago

ചുമല കിളികൾ ❤️



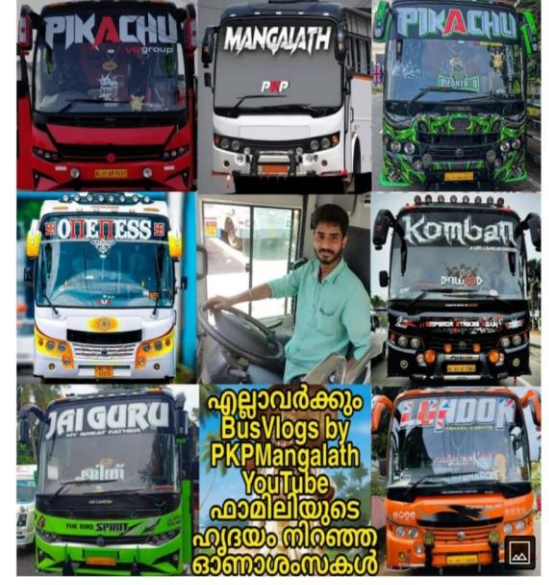
👍 230 💬 📧 2



THE HIGH COURT OF KERALA

BusVlogs by PKP Mangalath · **SUBSCRIBE**
2 hours ago

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@BusVlogs by PKP Mangalath YouTu...Read more



👍 380 🗨️ 8



parakkumthalika · **SUBSCRIBE**

1 day ago

ANIZHAM



MASTER ALBY · **SUBSCRIBE**

30 minutes ago

നമ്മുടെ ഗജവീര ചെക്കൻ സ്പെട്രം



SADIQ KOLLAM · **SUBSCRIBE**

2 hours ago

ഇനി ഒരു ട്രിപ്പ് പ്ലോഗ് ആയാലോ 🤔🤔
Stay tuned ❤️





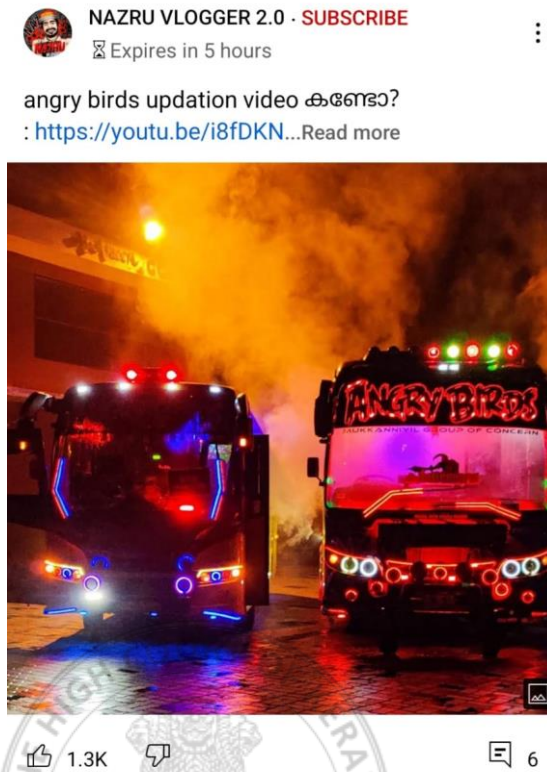
KOMBAN ADDICTERZ · SUBSCRIBE

3 hours ago

YODHAVU 🍷🔥







9. The learned Senior Government Pleader seeks time to get instructions from the 3rd respondent State Police Chief and the learned Special Government Pleader seeks time to get instructions from the 2nd respondent Transport Commissioner on the accident that occurred on Anchumoorthy Mangalam in Thrissur District involving a contract carriage carrying students from Mar Baselios School, Mulanthuruthy.

10. The learned Deputy Solicitor General of India seeks further time to get instructions from the Secretary, Ministry of Road Transport and Highways as to the action that can be taken against the vloggers and others, who are uploading videos in 'YouTube' and other online platforms,

promoting the use of motor vehicles on public place, flouting the safety standards, posing potential threat to the safety of passengers and other road users.

11. The 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department is directed to take colour photographs and video clippings of the exterior body, driver cabin and passenger cabin of the contract carriage and also the KSRTC bus involved in the accident, which shall be made available for the perusal of this Court on 10.10.2022, along with accident report of both the vehicles.

12. Registrar General shall obtain a copy of the video clipping, that appeared in Mathrubhumi news (online), taken at the time of commencement of journey by the students of Mar Baselios School, Mulanthuruthy, in the contract carriage in question. A copy of the said video clipping, copied in compact disc, shall be retained along with the Judges Papers, a copy of which shall be given to the learned Deputy Solicitor General of India, the learned Special Government and also the learned Senior Government Pleader.

13. 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 prohibit the use of contract carriages and other

transport vehicles on public place, flouting the safety standards, in strict compliance of the directions contained in paragraph 46 of the order dated 26.05.2022 [**2022 (4) KLT 934**], which is extracted hereinbefore at paragraph 2 of this order. Any person who drives, causes or allows to be driven in a public place such a contract carriage or other transport vehicle shall be proceeded against under sub-section (2) of Section 190 of the Motor Vehicles Act and the driving licence held by the driver of such vehicle shall be forwarded to the licensing authority for disqualification or revocation proceedings under Section 19 of the Act, as per the directions contained in paragraph 47 of that order. The certificate of fitness granted to such transport vehicle shall be cancelled by the prescribed authority, in accordance with the provisions under sub-section (4) of Section 56 of the Act, as directed in paragraph 49 of the said order.

14. List this matter for further consideration on 10.10.2022 at 02:00 p.m.

Registry to keep a copy of the video clippings and also the screen shots viewed today in open Court, in a Compact Disc, a copy of which shall be furnished to the learned Deputy Solicitor General of India, the Special Government Pleader and the Senior Government Pleader. The Transport Commissioner, through the concerned Enforcement Officers in the Motor Vehicles Department shall initiate proceedings against the contract

carriages in the screen shots re-produced hereinbefore at paragraphs 7 and 8 of this order. He shall also obtain the details of the vloggers who posted such promotion videos/posts in 'YouTube' and other online platforms.

Sd/-
ANIL K. NARENDRAN,
Judge

Sd/-
P.G. AJITHKUMAR,
Judge

bkn/-

