

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Monday, the 10th day of October 2022 / 18th 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,
THIRUVANANTHAPRUAM-695 003.

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

BY THE SPECIAL GOVERNMENT PLEADER FOR R2

BY THE SENIOR GOVERNMENT PLEADER FOR R1,3 & 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, 30/08/2022 AND 06/10/2022 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 10/10/2022 PASSED THE
FOLLOWING.

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

“CR”

SSCR No.20 of 2021

Dated this the 10th 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 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 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. 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 the Registry to list this matter before the Bench on 06.10.2022 at 11:00 a.m., in view of a motor accident which occurred on 05.10.2022 at 23.30 hrs. 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 the 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. The video taken at the time of the commencement of the journey at Mar Baselios School, Mulanthuruthy, is shown in the news item that appeared in Mathrubhumi news (online). Two screenshots taken from that video clipping, of contract carriage bearing registration No.KL-05/AU-8890 are reproduced hereunder;



4. By the order dated 06.10.2022, the 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department, was 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 the

accident report of both the vehicles. Registrar General was directed to obtain a copy of the video clipping that appeared in Mathrubhumi news (online), taken at the time of the commencement of the journey by the students of Mar Baselios School, Mulanthuruthy, in the contract carriage in question. By the said order, the 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department and the 3rd respondent State Police Chief, through the District Police Chief of the concerned Districts, were directed to 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]**. The 2nd respondent Transport Commissioner, through the concerned Enforcement Officers in the Motor Vehicles Department, was directed to initiate proceedings against the contract carriages in the screenshots of the promotional videos/posts reproduced at paragraphs 7 and 8 of the order dated 06.10.2022. The 2nd respondent was also directed to obtain the details of the vloggers who posted such promotional videos/posts of contract carriages on 'YouTube' and other online platforms.

5. Today, when this matter is taken up for consideration, in terms of the direction contained in the order of this Court dated 06.10.2022, the learned Special Government Pleader has made available for the perusal of this Court the Accident Inspection Report dated 08.10.2022 of the Regional Transport Officer (Enforcement), Palakkad, in respect of the accident, which occurred on 05.10.2022, involving contract carriage bearing registration

No.KL-05/AU-8890 and KSRTC bus bearing registration No.KL-15/A-1313. The learned Senior Government Pleader has made available for the perusal of this Court the report dated 09.10.2022 of the Deputy Superintendent of Police, Alathur, submitted before the District Police Chief, Palakkad, in respect of the said accident. The Deputy Superintendent of Police, Alathur and the Deputy Transport Commissioner, Central Zone-I, Thrissur, who are personally present in Court, have explained the facts disclosed in the investigation conducted by the Police and the Motor Vehicles Department. We do not propose to deal with those aspects in this order, since the investigation by the Police and the Motor Vehicle Department is going on.

6. The Accident Investigation Report dated 08.10.2022 of the Motor Vehicles Department and the photographs of contract carriage bearing registration No.KL-05/AU-8890, which form part of that report, would make it explicitly clear that the said vehicle used for carrying students from Mar Baselios School, Vettikkal, Mulanthuruthy, was fitted with unauthorised multi-coloured LED lights, rotating flash lights, DJ lights, laser lights, fog machine, high wattage speakers and woofers, spot lights and window curtain, etc. Retro-reflective tapes were not affixed properly on the exterior body of the vehicle. The driver cabin was fitted with continuously blinking DJ rotating LED lights, multi-coloured LED/laser/neon lights in the passenger compartment, converting the passenger compartment into a dancing floor, causing 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, which is evident from the screenshot of the CCTV footage at the Toll Booth. The said screenshot and also a photograph of the contract carriage taken after the accident are reproduced hereunder;



7. In view of the directions contained in the order dated 10.01.2022 [2022 SCC OnLine Ker 1105], which is reiterated in the order dated 26.05.2022 [2022 SCC OnLine Ker 2906], 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 duty bound to take necessary steps to prevent 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 cuttrains, 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.

8. As per sub-rule (1) of Rule 92 of the Central Motor Vehicles Rules, 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, which deals with construction, equipment and maintenance of motor vehicles. Similarly, as per sub-rule (1) of Rule 249 of the Kerala Motor Vehicles Rules, no person shall use and no person shall cause or allow to be used or to be in any public place any motor vehicle which does not comply with the rules contained in Chapter VII or with any order thereunder made by the competent authority. Part III of Chapter VII of the said Rules deals with special rules applicable to every public service vehicle other than an autorickshaw.

9. As per Rule 286 of the Kerala Motor Vehicles Rules, which deals with internal lighting, every vehicle shall be furnished with one or more electric lights adequate to give reasonable illumination throughout the passenger compartment or compartments but of such power or so screened as not to impair the forward vision of the driver. As per the proviso to Rule 286, inserted with effect from 08.01.2018, the internal lighting in buses that are registered on or after the 1st day of October, 2017 shall be in accordance with AIS-052 (Rev.1) 2008, as amended from time to time.

10. In the order dated 10.01.2022 [**2022 SCC OnLine Ker 1105**], we have reiterated the law laid down in **Jijith and others v. State of Kerala and others [2019 (1) KHC 463]** that the internal lighting in a contract carriage, which is a public service vehicle, is for the purpose of providing reasonable illumination throughout the passenger compartment. As provided under Rule 286 of the Kerala Motor Vehicles Rules, the passenger compartment of a public service vehicle shall be furnished with electric lights adequate to give reasonable illumination throughout the passenger compartment. Therefore, the passenger compartment of a contract carriage cannot be fitted with continuously blinking multi-coloured LED lights, laser lights, etc., in order to convert it as a dancing floor. Plying vehicles fitted with DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. for internal lighting will certainly cause distraction to other drivers and also to road users. Moreover, the continuously blinking multi-coloured LED lights, laser lights, etc. used for internal lighting in the passenger compartment pose a potential health hazard to the passengers. Contract carriages, which are fitted with DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. for internal lighting cannot be treated as vehicles which comply with the provisions of the Motor Vehicles Act and the Rules made thereunder, for the purpose of grant of Certificate of Fitness.

11. In the order dated 10.01.2022 [**2022 SCC OnLine Ker 1105**] we have noticed that, as per Para.4.1.2. of AIS-052 (Rev.1) 2008 - Code of Practice for Bus Body Design and Approval – applicable to the testing

and approval for body building of new models of buses with seating capacity of 13 or more passengers excluding driver - internal lighting and light signalling devices shall provide adequate illumination inside the bus for the safe operation by the driver and the passengers, during darkness and other conditions of reduced visibility. As per Para.4.1.2.2.1, cab lamp or courtesy lamp and passenger area lamps are to be placed on the roof of the bus, above the head of the observer. As per Para.4.1.2.4.1.1.2, the lighting devices used for dash board shall be discreet and shall not disturb the driver when driving in the dark. Para.4.1.2.4.1.2. deals with driver cabin lighting. As per Para.4.1.2.4.1.2.1., cab lamp or courtesy lamp, locker lamp and electrical distribution lamp fall in this category. As per Para.4.1.2.4.1.2.2, the lighting devices used for cabin interior should be sufficient enough for clearly distinguishing each component part of the cabin. The driver should be in a position to read signages written on the walls, door of the cabin. He should also be in position to read any instructions printed on paper. As per Para.4.1.2.4.1.2.3, the luminous flux of all the lamps provided for cabin lighting to light up the equipment, components and to read, shall not be less than 30 lux and shall not be more than 150 lux, when measured at 500 mm above the driver seat base. Para.4.1.2.4.1.3. deals with passenger compartment lighting. As per Para.4.1.2. 4.1.3.1., exit lamps and passenger area lamps fall in this category. As per Para.4.1.2.4.1.3.2., the lighting devices used for passenger area should ensure reading of signages inside the passenger area and other important signs like emergency signs. The illumination should light up handles, latches, knobs, rods, hand-holds,

etc. facilitating easy access to passenger. The illumination should be adequate for reading printed matter by the passenger. As per Para.4.1.2.4.1.3.3., the illumination of these lamps shall not be less than 50 lux, when measured at any seating location of the bus and at 500 mm above the seat base. As per Para.4.1.2.4.1.3.4., at least two night lights shall be provided in the passenger compartment of all buses except Type I buses. The interior lighting shall be designed such that the glare and reflections caused does not affect the driver.

12. In the order dated 10.01.2022 [**2022 SCC OnLine Ker 1105**] we have noticed that, the provisions in Chapter 4 of AIS-052 (Rev.1) 2008 deal with every minute details lighting of driver cabin and passenger cabin of buses with seating capacity of 13 or more passengers excluding driver. Use of DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. inside the driver cabin or the passenger cabin is legally impermissible. The installation of booster amplifiers, equalizer, DJ mixer, etc. inside the driver cabin, with illuminated control panel, causing glare and reflection of light on the windscreen of the vehicle, is also legally impermissible. Since use of vehicles without complying with the requirements of lighting of driver cabin and passenger cabin under Chapter 4 of AIS-052 (Rev.1) 2008 is likely to endanger the safety of the passengers and other road users, such vehicles shall not be permitted to be used in any public place.

13. Regulation 5 of the Motor Vehicles (Driving) Regulations, 2017 deals with duties of drivers and riders. As per sub-regulation (3) of

Regulation 5, the driver shall at all times maintain a good lookout and concentrate on the road and traffic and avoid any activity which distract or is likely to distract his attention. As per sub-regulation (6) of Regulation 5, the driver shall ensure that his view is not obstructed and his hearing is not impaired by passengers, animals, load, equipment in the vehicle or by the conditions of the vehicle. Sub-regulation (10) of Regulation 5 mandates that the driver shall ensure that loud music is not played in the vehicle. Sub-regulation (11) of Regulation 5 mandates that the driver shall not watch digital motion pictures or videos while driving, except were required for route navigation.

14. In the order dated 10.01.2022 [**2022 SCC OnLine Ker 1105**], we have reiterated the law laid down in **Jijith [2019 (1) KHC 463]** that, neither the provisions of Rule 289 of the Kerala Motor Vehicles Rules nor the provisions under AIS-052 (Rev.1) 2008 enable installation of high-power audio system with multiple power amplifiers, speakers and sub-woofers in a contract carriage. Loud music from such high-power audio systems will certainly endanger the safety of other road users and will cause inconvenience to them; will distract the attention of the driver of the vehicle and impair his hearing; thereby violating the provisions under Regulations 3 and also sub-regulations (3) and (6) of Regulation 5 of the Motor Vehicle (Driving) Regulations. Loud music from such high-power audio systems will also violate the provisions of sub-regulation (10) of Regulation 5, which provides that the driver shall ensure that loud music is not played in the vehicle. Therefore, no motor vehicle can be fitted with high-power speakers

or subwoofers with multiple booster/power amplifiers. Fixing high-power speakers or sub-woofers, with enclosures made of wood or other materials, inside the passenger compartment of a motor vehicle cannot be permitted. Similarly, installation of DJ (Disc Jockey) sound system with DJ mixer, DJ rotating LED lights, laser lights, Karaoke systems, etc., which are typically meant for dance party, cannot be permitted in the passenger compartment of a transport vehicle. The continuously blinking DJ rotating LED lights, multi-coloured LED/laser lights fitted in the passenger compartment, in order to convert it as a dancing floor for the passengers, will certainly cause distraction to other drivers and also to road users. Moreover, mixing up of AC and DC power supply for such high-power audio systems with DJ mixer, DJ dancing lights, laser lights, etc., violating safety standards, poses a potential fire hazard to the passengers. Contract carriages, which are fitted with high-power audio system having multiple booster/power amplifiers, speakers and sub-woofers producing loud noise, and also DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. cannot be treated as vehicles which comply with the provisions of the Motor Vehicles Act and the rules made thereunder, for the purpose of grant of Certificate of Fitness.

15. In the order dated 10.01.2022 [**2022 SCC OnLine Ker 1105**], we have reiterated the law laid down in **Jijith [2019 (1) KHC 463]** that, the paintwork or varnish of every transport vehicle shall be maintained in a clean and sound condition, which is the mandate of Rule 264 of the Kerala Motor Vehicles Rules. If the State or Regional Transport Authority has laid

down any specifications like uniform colour scheme, the paintwork of the transport vehicle shall be in accordance with those specifications. Any figure or writing exhibited on the transport vehicle with an object to invite public attention and to promote the contract or stage carriage service of the operator will attract the provisions of Rule 191 of the Kerala Motor Vehicles Rules. Driver distraction is one of the major causes of road accidents, which is a situation where the attention of the driver is diverted to any other forms of activities, which may affect the concentration of driving activity as well as the safety of the passengers and others on public road. Earning of revenue by the State by the levy of fee under Rule 191 of the Kerala Motor Vehicles Rules or generation of some additional income by the operator of the transport vehicle should not be at the cost of public safety. Therefore, the exhibition of writings or figures with the sole object to invite public attention and to promote the contract or stage carriage service should not be permitted by levying fee under Rule 191 of the Kerala Motor Vehicles Rules. While approving the matter intended to be exhibited on the vehicle, in exercise of the powers under subrule (2) of Rule 191 of the Kerala Motor Vehicles Rules, the State or the Regional Transport Authority shall ensure that it does not cause distraction to the drivers of other vehicles and also cyclists and pedestrians on public road. In view of the provisions under Rule 100 of the Central Motor Vehicles Rules and the law laid down by the Apex Court in **Avishek Goenka [2012 (5) SCC 321]**, tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows of a motor vehicle, either by

pasting any material upon the safety glass or by fixing sliding 'cloth curtains', etc. are legally impermissible. No approval under sub-rule (2) of Rule 191, shall be granted for exhibition of any advertisements, writings, figures, graphics, etc. on the safety glasses of a transport vehicle, which shall always be maintained in such a condition that the visual transmission of light is not less than that prescribed under sub-rule (2) of Rule 100.

16. Rule 278 of the Kerala Motor Vehicles Rules provides that, every vehicle shall be so constructed that save for the front pillars of the body, the driver shall have a clear vision both to the front and through an angle of ninety degrees to his right or left-hand side, as the case may be. The front pillars of the body shall be so constructed as to cause the least possible obstruction to the vision of the driver.

17. In the order dated 10.01.2022 [**2022 SCC OnLine Ker 1105**], we have reiterated the law laid down in **Jijith [2019 (1) KHC 463]** that, in order to use the vehicles as contract carriages, the operators will have to remove all writings, figures, etc. and maintain the safety glass in such a condition that the visual transmission of light is not less than that prescribed under sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules, and with a clear vision to the driver, both to the front and through an angle of ninety degrees to his right or left-hand side, as the case may be, as prescribed under Rule 278 of the Kerala Motor Vehicles Rules. In **Principal, Sabari PTB Smaraka H.S.S. v. Additional Registering Authority, Ottapalam and others [2020 (2) KLJ 662]** this Court noticed that, in violation of Rule 278 of the Kerala Motor Vehicles Rules, the

safety glasses of the windscreen of public service vehicles are being pasted with stickers, graphics, etc. Various objects are being placed/hanged in front of the windscreen of such vehicles, causing obstruction to the clear vision of the driver, both to the front and through an angle of ninety degrees to his right or left hand side. Therefore, this Court directed the Transport Commissioner, Kerala to take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no public service vehicle is permitted to be used in any public place after placing/hanging various objects in front of the windscreen, causing obstruction to the clear vision of the driver, both to the front and through an angle of ninety degrees to his right or left hand side, in violation of Rule 278 of the Kerala Motor Vehicles Rules.

18. A few screenshots taken from the news item that appeared in visual media after the motor accident which occurred on 05.10.2022 are reproduced hereunder;





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Screenshots 1 to 3 are from a news item that appeared in Mathrubhumi news (online) regarding the use of a contract carriage by the name 'Xplod' by the students in MES College of Engineering, Marampally, Aluva, after the motor accident which occurred on 05.10.2022. We have viewed that news item in open Court. The said vehicle is fitted with high-power audio system with multiple booster/power amplifiers, speakers and sub-woofers with rating of several thousand watts PMPO, after-market multi-coloured LED/laser/neon lights, flash lights, etc. The Enforcement Officers of the Motor Vehicles Department intercepted the said vehicle and initiated proceedings against its use in public place, flouting the safety standards. Screenshot 4 is from a news item that appeared in Mathrubhumi news (online) regarding use of contract carriages with unauthorized fittings, including a separate diesel engine (of Balero Jeep) inside the luggage compartment on the left side, to generate power for the A/C unit.

19. A photograph that appeared in the Hindu daily dated 08.10.2022 of the employees giving final touches to a KSRTC bus for jungle safari from KSRTC Bus Depot at Sulthan Bathery to Ponkuzhy on the Kerala-Karnataka boarder through Kozhikode-Kollengal NH-766, which passes through the Wayanad Wildlife Sanctuary, is reproduced hereunder;



Final touches being given to a KSRTC bus for jungle safari.

20. In **Saji K.M. v. Deputy Transport Commissioner [2019 SCC OnLine Ker 2047 : 2019 (3) KHC 836]** this Court noticed that the provisions under 'Policy on Roadside Advertisements' formulated by the Indian Road Congress, vide IRC:46-1972 was introduced when it was noticed that advertisement can often distract the attention of drivers of motor vehicles and in that case a public hazard or nuisance. They may also obstruct the view of the drivers of fast moving vehicles and are then a public danger. Para.2 of IRC:46-1972 deals with advertisement control; Para.3 deals with principles on advertisement control; etc. The Ministry of Road Transport and Highways vide Circular No.RW/NH-33044/35/2001/S&R(R) dated 16.05.2002 has made it clear that no advertisement hoardings are permitted on National Highways within the Right of Way (ROW) except informatory signs of public interest such as hospitals, bus stations, etc. or advertisement of temporary nature announcing local events such as Mela, Flower Show, etc. Besides, IRC:46-1972 titled 'A Policy on Roadside Advertisements' published in 1972 should also be referred for comprehensive guidelines on advertisement control on National Highways.

21. In **Saji K.M. [2019 (3) KHC 836]** this Court noticed that the Ministry of Road Transport and Highways in its letter No.F.No.RW/NH-33044/18/ 2016/S&R(R) dated 07.09.2016 noticed that despite the Ministry's policy of not allowing roadside advertisements, hoardings on National Highways, which cause distraction and is also one of the causes of accidents on National Highways, advertisement hoardings have generally

been noticed along the National Highways. Therefore, it was decided that the Regional Officers/Engineering Liasoning Officers within their jurisdiction shall inspect the National Highways by prioritising heavily traffic National Highways and other National Highways in stages and submit inspection reports to the Ministry for further necessary action, along with their monthly reports. However, reports from the Regional Officers/Engineering Liasoning Officers are not being received by the Ministry and therefore, the Ministry vide letter dated 07.09.2016 directed all the implementing agencies and Regional Officers/Engineering Liasoning Officers to do joint inspection of all National Highways within their jurisdiction and sent a consolidated report regarding advertisement hoardings to the Ministry for further necessary action. A copy of the said letter is addressed to all Engineers-in-Chief and Chief Engineers of Public Works Departments of State/Union Territories dealing with National Highways and other Centrally Sponsored Schemes.

22. In **Saji K.M. [2019 (3) KHC 836]**, after taking note of the provisions under 'Policy on Roadside Advertisements' formulated by the Indian Road Congress, vide IRC:46-1972, the circular and letter issued by the Ministry of Road Transport and Highways and also the provisions under the Motor Vehicles Act and the Rules made thereunder, this Court held that, since transport vehicles owned/operated by KSRTC and KURTC are regularly plying on National Highways, such vehicles shall not be permitted to exhibit any advertisements which are likely to distract the attention of other drivers. Earning of additional income by KSRTC or KURTC by the

display of advertisements on their transport vehicles, under Rule 191 of the Kerala Motor Vehicles Rules, should not be at the cost of public safety.

23. 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 said 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. In the said decision, the Apex Court held further 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 rules framed thereunder.

24. In view of the provisions under Section 190 of the Motor Vehicles Act, as amended by Section 72(i) (a) to (c) of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.09.2019, 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 or with high-power audio systems producing loud sound with rating of several thousand watts PMPO; 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.

25. In view of the provisions under sub-section (4) of Section 206 of the Motor Vehicles Act, as 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.

26. 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.

27. In view of the law laid down in **Jijith [2019 (1) KHC 463]** and reiterated in the order dated 10.01.2022 **[2022 SCC OnLine Ker 1105]** if the State or Regional Transport Authority has laid down any specifications like uniform colour scheme, the paintwork of the transport vehicle shall be in accordance with those specifications. Any figure or writing exhibited on the transport vehicle with an object to invite public attention and to promote the contract or stage carriage service of the operator will attract

the provisions of Rule 191 of the Kerala Motor Vehicles Rules. Driver distraction is one of the major causes of road accidents, which is a situation where the attention of the driver is diverted to any other forms of activities, which may affect the concentration of driving activity as well as the safety of the passengers and others on public road. Earning of revenue by the State by the levy of fee under Rule 191 of the Kerala Motor Vehicles Rules or generation of some additional income by the operator of the transport vehicle should not be at the cost of public safety. As held by this Court, the exhibition of writings or figures with the sole object to invite public attention and to promote the contract or stage carriage service should not be permitted by levying fee under Rule 191 of the Kerala Motor Vehicles Rules. While approving the matter intended to be exhibited on the vehicle, in exercise of the powers under subrule (2) of Rule 191 of the Kerala Motor Vehicles Rules, the State or the Regional Transport Authority shall ensure that it does not cause distraction to the drivers of other vehicles and also cyclists and pedestrians on public road. In view of the provisions under Rule 100 of the Central Motor Vehicles Rules and the law laid down by the Apex Court in **Avishek Goenka [2012 (5) SCC 321]**, no approval under sub-rule (2) of Rule 191, shall be granted for exhibition of any advertisements, writings, figures, graphics, etc. on the safety glasses of a transport vehicle, which shall always be maintained in such a condition that the visual transmission of light is not less than that prescribed under sub-rule (2) of Rule 100. As held by this Court in **Saji K.M. [2019 (3) KHC 836]**, since transport vehicles owned/operated by KSRTC and KURTC are regularly

plying on National Highways, such vehicles shall not be permitted to exhibit any advertisements which are likely to distract the attention of other drivers. Earning of additional income by KSRTC or KURTC by the display of advertisements on their transport vehicles, under Rule 191 of the Kerala Motor Vehicles Rules, should not be at the cost of public safety.

28. In the order dated 26.05.2022 **[2022 (4) KLT 934]** this Court noticed that video contents of use of contract carriages and stage carriages in public place, which are fitted with multi-toned horn giving a succession of different notes and horn giving unduly harsh, shrill, loud or alarming noise, unauthorised fittings, graphics, etc. are being uploaded on online video platforms like 'YouTube', by registered owners of such vehicles or by vloggers, who are permitted to record such videos inside the driver cabin, even while the vehicle is moving in a higher speed, disturbing the concentration of the driver while driving, posing potential threat to the safety of the passengers and other road users.

29. As already noticed hereinbefore, in view of the provisions under Section 190 of the Motor Vehicles Act, 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, or 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 or with high-power audio systems producing loud sound with rating of several thousand watts PMPO; 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. In view of the provisions under 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 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. 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.

30. As held by the Apex Court in **Avishek Goenka [2012 (5) SCC 321]** the Central Motor Vehicles Rules deal with every minute detail of construction and maintenance of a vehicle. 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. 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 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 rules framed thereunder.

31. Keeping in mind the legislative intent attaching due significance to 'public safety' in the provision in the Motor Vehicles Act and also the Rules and Regulations made thereunder, the amended provisions incorporated by the Motor Vehicles (Amendment) Act, 2019 and also the consequential amendments in the Rules and regulation made thereunder require compliance in letter and spirit. The State Government cannot dilute the stringent provisions and penal consequences contained in the amended provisions, since those provisions have been incorporated to ensure not only the appropriate manner of construction and maintenance of motor vehicles, but also safety of other users of the road. Therefore, the

provisions under the Motor Vehicles Act and the Rules and Regulations made thereunder require strict enforcement by the State Government through the Enforcement Officers in the Motor Vehicles Department and also the Police, in respect of all class of motor vehicles used in public place, namely, contract carriages, stage carriages, goods vehicles and also motor cars. The said provisions require strict enforcement in the case of motor cars as well, irrespective of whether it is a private vehicle or Government vehicle or a vehicle carrying constitutional dignitary.

32. Despite the law laid down by this Court in **Kerala Bus Transport Association and others v. Government of Kerala and another [2018 (4) KLT 947]** stage carriages, including those operating as town and city services, which are fitted with door shutters as per the mandate of sub-rule (2) of Rule 280 of the Kerala Motor Vehicles Rules, are being used in public place with door shutters open. Even the contract carriages which are fitted with high-power music system, unauthorised lights, etc., are being used in public place with door shutters open. Despite repeated accidents, the Enforcement Officers in the Motor Vehicles Department and also the Police are not in a position to enforce in letter and spirit the statutory provisions regarding door shutters in transport vehicles.

33. As evident from the photographs which form part of the accident investigation report dated 08.10.2022 of the Motor Vehicles Department, large scale alterations are made in the contract carriage bearing Registration No.KL-05/AU-8890 involved in the accident which occurred on 05.10.2022. The owner of the said contract carriage, who

caused or allowed to be driven such a vehicle in public place, violating the safety standards referred to hereinbefore and also the driver of the said vehicle, who had driven such a vehicle in public place, have to face penal consequences provided under sub-section (2) of Section 190 of the Motor Vehicles Act and also the penal provisions under the Indian Penal Code. A vlogger posting promotion videos/posts of such a vehicle and those who made alterations in that vehicle violating the safety standards referred to hereinbefore, by fitting after-market multi-coloured LED/laser/neon lights, flash lights, etc., or violating the standards prescribed in relation to control of noise by fitting multi-toned horn or high-power audio system, thereby enabling the owner and driver of such a vehicle to use it in public place posing threat to the safety of the passengers and other road users, also have to face the penal consequences under the provisions of the Motor Vehicles Act and also the penal provisions under the Indian Penal Code, once the use of such a vehicle in public place has resulted in a motor accident, causing injury or death to any passenger in that vehicle or other road users.

34. It is submitted by the learned Deputy Solicitor General of India that despite the directions contained in various orders of this Court and the efforts taken by the Enforcement Officers in the Motor Vehicles Department and also the Police, contract carriages with unauthorised lights, high-power audio systems, etc., are being used by the students in schools and colleges, for their study tour. The provisions under the Motor Vehicles Act and the Rules and Regulations made thereunder require strict enforcement by the

State Government, since several accidents had occurred involving contract carriages, in which the passengers in those vehicles and other road users sustained serious injuries, including fatal injuries.

35. The learned Special Government Pleader and also the learned Senior Government Pleader would submit that the Enforcement Wing of the Motor Vehicles Department and also the Police are taking earnest efforts to prevent such accidents by ensuring strict compliance of the safety requirements under the Motor Vehicles Act and the Rules and Regulations made thereunder and also the directions contained in the judgment of this Court referred to hereinbefore. They would submit that, in the wake of the accident, which occurred on 05.10.2022, a meeting has already been convened today by the State to discuss various issues on road safety.

36. Having considered the materials on record and also the submissions made by the learned Deputy Solicitor General of India, the learned Special Government Pleader and also the learned Senior Government Pleader, we find that a total prohibition on the use of contract carriages violating the safety standards prescribed in AIS-008/AIS-052(Rev.1) 2008 and also the standards prescribed in relation to control of noise, is highly essential since plying of such vehicles on public place is posing threat to the safety of the passengers in those vehicles, and also other road users. The procedure now being adopted by the Enforcement Wing of the Motor Vehicles Department and also the Police, in permitting the use of such vehicles in public place after interception, with a direction to produce such vehicles for inspection within a period of one week after

removing such unauthorised fittings, etc., cannot be permitted to continue, since such a procedure is in flagrant violation of the statutory provisions referred to hereinbefore and also the law laid down in the decisions referred to supra.

37. A mere removal of unauthorised fittings in a contract carriage, without completely removing the additional wiring and other alterations made in the bus body, passenger compartment and driver cabin cannot make that vehicle as one, which complies with the provisions under the Motor Vehicles Act and the Rules and Regulations made thereunder for the purpose of grant of Certificate of Fitness. The bus body, the passenger compartment and the driver cabin of that contract carriage will have to be maintained in the appropriate manner of its construction and maintenance, as per the statutory requirements in the Central Motor Vehicles Rules/Kerala Motor Vehicles Rules/AIS-008/AIS-052 (Rev.1) 2008, etc., and then only that vehicle can be treated as one which complies with the provisions of the Motor Vehicles Act and the Rules and Regulations made thereunder, for the purpose of grant of Certificate of Fitness, which is the statutory mandate of sub-rule (1) of Rule 92 of the Central Motor Vehicles Rule and sub-rule (1) of Rule 249 of the Kerala Motor Vehicles Rules. Therefore, the Fitness Certificate of such a contract carriage has to be suspended with immediate effect, for a period of three months, within which time the owner of that vehicle can be directed to make that vehicle as one which complies with the requirements of the Motor Vehicles Act and the Rules and Regulations made thereunder, in all respects. After proper

inspection, on being satisfied that the vehicle complies with the aforesaid requirements, in all respects, the competent authority can grant Certificate of Fitness to that vehicle. The driving licence of the driver who had driven such a contract carriage in public place 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. Stringent action has to be taken against the owner and driver of contract carriages or other transport vehicles, which are used in public place after tampering with speed governor installed as provided under Rule 118 of the Central Motor Vehicles Rules. Stringent action has also to be taken under Section 185 of the Motor Vehicles Act, once it is found that the contract carriages or other transport vehicles were driven by a drunken person or by a person under the influence of drugs.

38. The Enforcement Officers in the Motor Vehicles Department and also the Police shall conduct periodical inspection during day time and also night hours to ensure that no contract carriages or other transport vehicles are being used in public place flouting the safety standards and also the standards prescribed in relation to control of noise, referred to hereinbefore. If there is any obstruction to the discharge of duties by the Enforcement Officers in the Motor Vehicles Department, while conducting inspection in contract carriages and other transport vehicles, the Police shall render necessary assistance. The 2nd respondent Transport Commissioner shall place on record a report on deployment of officers in 86 Regional

Transport Offices in the State, for conducting periodical inspection of motor vehicles during daytime and also night hours. Any contract carriages or other transport vehicles, which are used in public place flouting the safety standards and also the standards prescribed in relation to control of noise, shall be dealt with appropriately by initiating prosecution, and such vehicles shall be produced before the jurisdictional Magistrate Court along with colour photographs and video of the bus body, passenger compartment, driver cabin and also luggage compartment (in case luggage compartment is fitted with diesel engine for power generation or inverters with batteries or sound boxes) and further proceedings regarding custody of that vehicle shall be taken based on the orders of that court.

39. In case any contract carriage, which does not meet the safety standards and the standards prescribed in relation to control of noise is used in any public place for carrying students from any educational institutions, the head of that educational institution and also the teacher or teachers, who are in charge of that trip, who are least bothered about the safety of the students, shall also be proceeded against, in accordance with law. Entry of any contract carriages or other motor vehicles violating the safety standards or the standards prescribed in relation to control of noise or vehicles with unauthorised alterations, shall not be permitted in the premises of any educational institutions in the State, for any purpose whatsoever, including exhibition, auto show, etc. Any such activity shall be prevented by the head of that educational institution, which shall also be reported to the concerned Station House Officer and also the Enforcement

Officer in the Motor Vehicles Department, so as to enable them to proceed against the owner and driver of such vehicles.

40. By the order dated 06.10.2022 the 2nd respondent Transport Commissioner was directed to obtain the details of the vloggers, who post 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. The learned Special Government Pleader would submit that he is awaiting instructions from the 2nd respondent on the above aspect. In the meantime, the 2nd respondent and also the Ministry of Road Transport and Highways shall take necessary steps to ensure that such videos promoting the use of motor vehicles in public place, flouting the safety standards, posing potential threat to the safety of passengers and other road users, are not being uploaded in 'YouTube' and other online platforms.

List this matter for further consideration on 14.10.2022 at 02:00 p.m.

Sd/-

**ANIL K. NARENDRAN
JUDGE**

Sd/-

**P.G. AJITHKUMAR
JUDGE**

Bkn/-