

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN**

Friday, the 8th day of April 2022 / 18th Chaithra, 1944
WP(C) NO. 23021 OF 2018

PETITIONER:

THE PRINCIPAL, SABARI PTB SMARAKA H.S.S ADAKKAPUTHUR, OTTAPALAM.
BY ADV.SRI.P.DEEPAK

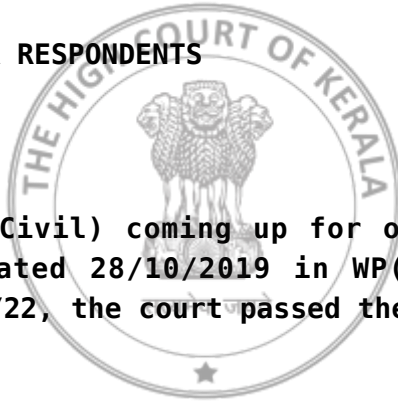
RESPONDENT:

1. THE ADDITIONAL REGISTERING AUTHORITY, OTTAPALAM -679101.
2. ADDL.R2. P.M.SHAJI, MOTOR VEHICLES INSPECTOR, SUB REGIONAL TRANSPORT OFFICE, SBI BUILDING, NEAR MUNICIPAL BUS STAND, OTTAPALAM, PIN 671 521. ADDITIONAL 2ND RESPONDENT SUO MOTU IMPEADED AS PER ORDER DATED 05/09/2019.
3. ADDL R3, THE TRANSPORT COMMISSIONER, KERALA, TRANSPORT COMMISSIONERATE, 2ND FLOOR, TRANS TOWERS, VAZHUTHACAUD, THYCAUD P.O, THIRUVANANTHAPURAM-695 014 IS SUO MOTU IMPEADED AS PER ORDER DATED 28-10-2019 IN WP(C)23021/2018.THIRUVANANTHAPURAM

BY GOVERNMENT PLEADER FOR RESPONDENTS

ASGI FOR RESPONDENTS

This Writ Petition(Civil) coming up for orders on 08/04/22, upon perusing the judgment dated 28/10/2019 in WP(C) 23021/2018 and this court's order dated 06/04/22, the court passed the following:



ANIL K. NARENDRA, J.

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Dated this the 8th day of April, 2022

ORDER

The petitioner, who is the Principal of Sabari PTB Smaraka Higher Secondary School, Adakkaputhur, Ottappalam, filed writ petition seeking a writ of mandamus commanding the 1st respondent Additional Registering Authority, Ottappalam to endorse the class of vehicle bearing registration No. KL-09/L-8719, covered by Ext. P5 certificate of registration, as Educational Institution Bus (Contract Carriage), without insisting compliance of Rule 125C of the Central Motor Vehicles Rules, 1989.

2. In the judgment dated 28.10.2019 - **Principal, Sabari PTB Smaraka H.S.S. v. Additional Registering Authority and others [2020 (2) KHC SN 9 : 2020 (2) KLJ 662 : 2019 SCC OnLine Ker 7998]** this Court held that the petitioner's vehicle, which does not meet the safety standards for installation of lighting, light-signalling devices and retro-reflectors specified in Safety Standards No.15.1, followed by AIS-008/2001 and S.O.1365(E) dated 13.12.2004, cannot be permitted to be used in any public place, since use of such vehicles in any public place is likely to endanger the safety of other road users. Since the registration mark on the petitioner's vehicle is not displayed as per the statutory mandate of Rules 50 and 51 of the Central Motor Vehicles Rules and

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also Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017; and the vehicle is not provided with an emergency exit, as specified in sub-rule (1) of Rule 291A of the Kerala Motor Vehicles Rules, for evacuation of the children, in case of emergency, the said vehicle cannot be said to be a motor vehicle that complies with the provisions of the Motor Vehicles Act and the rules made thereunder, for the purpose of granting certificate of fitness in Form 38, under Rule 62 of the Central Motor Vehicles Rules, by the inspecting authority or the authorised testing station.

3. On noticing that, despite the direction issued by this Court in **Ma'Din Public School v. Regional Transport Officer [2019 (2) KLT 1011 : 2019 SCC OnLine Ker 1040]** and **Saji v. Deputy Transport Commissioner [2019 (3) KHC 836 : 2019 SCC OnLine Ker 2047]**, motor vehicles which are likely to endanger the safety of other road users, are being permitted to be used in public place by the Registering Authorities in the State, this Court issued various directions to the Transport Commissioner, Kerala in Paras.126 to 131 of the judgment dated 28.10.2019 **[2020 (2) KHC SN 9]**, who was directed to file action taken report before this Court on or before 04.04.2020.

4. On 24.11.2020, the Joint Transport Commissioner (Enforcement) has filed action taken report for and on behalf of the

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additional 3rd respondent Transport Commissioner, producing therewith Annexure R3(a) statement showing the details of check reports prepared, the amount of compounding fee collected, etc.

5. On 15.01.2021, along with a memo filed by the learned Special Government Pleader, a copy of Circular No.69/CAMP/ADGP(HQ)/2019 dated 14.12.2020 of the State Police Chief was placed on record, whereby all officers in the Police Department are directed to remove contraband articles (window curtains, bull bars, sun films, etc.), if any, from all the vehicles of the Police Department and also a copy Circular No.G3/858/2019/Home dated 30.12.2020 issued by the Government of Kerala, Home Department, regarding use of window curtains/black films in official vehicles of various Government Departments, whereby all Government Departments are instructed to ensure that none of the vehicles under their administrative control use curtains/dark films or any material which affects the visual light transmission percentage, through the windscreens/windows, as stipulated in the Motor Vehicles Act, 1988.

6. In the order dated 09.04.2021, this Court noticed that, large number of motor vehicles, including stage carriages, contract carriages and goods vehicles are being permitted to be used in public place, in violation of the safety standards prescribed in AIS-008/AIS-

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009/2001/ AIS-030/2001, which are likely to endanger the safety of other road users. The light emitted from the additional headlamps/lamps installed on the face cowl is capable of dazzling the drivers of the oncoming vehicles directly, and also the drivers of the vehicles proceeding in front, indirectly, through the rear-view mirrors and/or other reflecting surfaces of their vehicle. The light emitted from such additional headlamps/lamps is also capable of dazzling the pedestrians. Video contents of use of such vehicles in public place are being uploaded on online video platforms like 'YouTube' by the registered owners of such vehicles or by the vloggers. Few images of such vehicles used in public place in violation of the safety standards prescribed in AIS-008/AIS-009/2001/AIS-030/2001 are reproduced hereunder;



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7. In the order dated 09.04.2021, this Court noticed that, motor vehicles are being permitted to be used in public place after putting objects in front of the lighting, light-signalling devices or reflectors. Large number of motor vehicles, especially motor cars are being permitted to be used in public place after replacing the prototype approved reflectors on the rear bumper with after-market LED brake lights/direction indicator lights. Flashing lamps are being permitted to be used in lamps other than direction indicators and hazard-warning signal, in violation of Para.5.9 of AIS-008. Large number of motor vehicles, especially stage carriages, contract carriages and goods vehicles are being permitted to be used in public place with red flashing

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stop lamps, flashing lamps inside headlight assembly, flashing lamps on the roof top of the cabin, etc. The light emitted from such lamps is capable of dazzling the drivers of the oncoming vehicles and also the pedestrians. Large number of motor vehicles, especially motor cars and motor cycles are being permitted to be used in public place after 'tinting' lighting, light-signalling devices (i.e., headlights, tail lights, indicators, daytime running light, etc.) or reflectors by fixing vinyl tint film sticker. Video contents of such alterations and also the use of such vehicles in public place are being uploaded on online video platforms like 'YouTube' by the registered owners of such vehicles or by the vloggers.

8. On 06.04.2022, this Court passed an order in this matter and Registry was directed to issue a copy of that order to the learned Assistant Solicitor General of India (ASGI) and to show the name of the learned ASGI in the cause list. Paragraphs 18 to 20 of that order read thus;

"18. Many vehicles are seen plying in the State, carrying the name board "**Government of India**", "**Government of Kerala**", "**Kerala State**", "**Government Vehicle**", etc. to mislead the Police, the Enforcement Officers of the Motor Vehicles Department, etc. by giving an impression that the said vehicles are owned by a Government Department. Persons in such vehicles are pretending as if they are Government servants and they are misusing such

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name boards to escape from the checking of vehicle by the Police, Enforcement Officers of the Motor Vehicles Department, etc., and to avoid payment of toll at the toll booths. It is the duty of the Police and the Enforcement Officers of the Motor Vehicles Department to keep an eye on such vehicles, subject them to through checking, besides verifying the identity of persons in it, and initiate appropriate proceedings in accordance with law.

19. Several vehicles with such name boards are pasted with cooling films on the safety glass or fitted with sliding cloth curtains. The enforcement agencies in the Motor Vehicles Department and the Police are not taking any action against the use of such vehicles on public place. Few images of such vehicles are reproduced hereunder;



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20. As per sub-rule (1) of Rule 108 of the Central Motor Vehicles Rules, 1989 no motor vehicle shall show a red light to the front or light other than red to rear. Some of the vehicles are even fitted with 'backlit name boards' showing red light to the front, in violation of the provisions under sub-rule (1) of Rule 108 of the said Rules."

9. In Para. 105 of the judgment dated 28.10.2019 **[2020 (2) KHC SN 9]** this Court noticed that, the rule making power under clause (p) of sub-section (2) of Section 62 of the Motor Vehicles Act does not empower the State Government to permit use of any emblem/star plate or display any flag on a motor vehicle, other than a vehicle

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carrying the constitutional authorities and other dignitaries specified in Part I and Part II of Schedule II of the State Emblem of India (Regulation of Use) Rules, 2007/the dignitaries specified in clauses (1) to (7) of Paragraph 3.44 of the Flag Code of India, 2002. The 'Official Emblem of the State Government', after incorporating the 'State Emblem of India' or any part thereof, under Rule 4 of the State Emblem of India (Regulation of Use) Rules, 2007, shall not be displayed on a motor vehicle, other than a vehicle carrying the constitutional authorities specified in Part II of Schedule II of the said Rules. The rule making power under clause (p) of sub-section (2) of Section 62 of the Motor Vehicles Act does not empower the State Government to permit use of 'name board' in a motor vehicle.

10. In the order dated 09.04.2021, this Court noticed that, the Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, has issued Office Memorandum No.A-27023/30/2016-Ad.VI(A) dated 03.11.2017 against unauthorised use of the State Emblem on official cars used by the officers posted in the various field units/ zones, without any authority and in gross violation of the statutory provisions of the State Emblem of India (Regulation of Use) Rules, 2007. The said Office Memorandum is extracted hereunder;

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No.A-27023/30/2016-Ad.VI(A)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
New Delhi, the 3rd October, 2017

OFFICE MEMORANDUM

Subject: Use of the State Emblem of India on official vehicles - reg.
The undersigned is directed to circulate the provisions of 'The State Emblem of India (Prohibition of Improper Use) Rules, 2007' [sic; the State Emblem of India (Regulation of Use) Rules, 2007], which says that the use of the emblem on vehicles shall be restricted to the authorities specified in Schedule II of the said Rules (Copy attached).

2. It has come to the notice of the Board that official cars being used by the officers posted in the various field units/Zones are using the State Emblem without any authority and in gross violation of the statutory provisions.

3. All the Pr.CCITs.(CCA)/Pr./Ts. are requested to instruct their admin officers dealing with engagement and allocation of vehicle for official use within its area of jurisdiction to desist use of State Emblem of India on the vehicles provided to the officers for official use. It is also requested to ensure that the use of the State Emblem of India on vehicle is limited to the authorities specified in Schedule II of the aforesaid Rules. If any such instance comes to the notice of the Board in future, the matter will be viewed seriously and the concerned officer as well as the concerned Pr.CCIT/Pr.DGIT will be held responsible for violation of the provisions of aforesaid Act.

4. This issues with the approval of Member (Administration).

Encl.: As above

(Yogesh Sharma)

(underline supplied)

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11. In **Manoj Padmanabhan v. State of Kerala and others** [judgment dated 22.01.2021 in W.P.(C)No.19242 of 2014] one of the reliefs sought for was a writ of mandamus commanding the Chief Secretary, Government of Kerala, to prohibit the use of flags and similar insignia by IAS, IFS and such other public officials in their cars, except those permitted by law for the uniformed personnel. The petitioner has also sought for an order directing the Secretary to Government, Transport Department and the Transport Commissioner, Kerala to strictly regulate the use of boards on cars such that it does not cover the registration number plates and it is not used extensively in order to secure a privilege while on roads. In Para.10 of the judgment, the Division Bench of this Court noticed that flags and other insignia are not being used by the public officials except the Constitutional Authorities. Para.10 and also the last Para. of that judgment read thus;

"10. Flags and other insignia are not being used by the public officials except the Constitutional Authorities. Use of Boards on cars are also regulated by Government Orders/Circulars (Exts.P5 & P6) as well as the amendments to the Rules. In the light of the subsequent amendments and the Government orders/circulars issued, no certiorari or mandamus, as prayed for is required to be issued. Writ Petition is dismissed." (underline supplied)

12. The legality or otherwise of the amendment made to Rule

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92A of the Kerala Motor Vehicles Rules, 1989 by the Kerala Motor Vehicles (4th Amendment) Rules, 2015, to regulate the exhibition of boards showing the name of the Government, the Government Department, the institution or the designation of the officer in the vehicles used by them was not an issue raised before the Division Bench. In Para.9 of the judgment, the Division Bench extracted communication F.No.RT-11036/04/2011-MVL dated 04.03.2021 of the Under Secretary to Government of India, Ministry of Road Transport and Highways addressed to the Transport Commissioner, Kerala, on the subject 'displaying of Government of India/Bharat Sarkar on Central Government owned vehicles', which reads thus;

"I am directed to refer to your letter No.C1/11111/TC/ 2010 dated January 04, 2011 on the subject noted above and to say that no provision exists in the Motor Vehicle Act, 1988 to display 'Govt. of India' on motor vehicles belonging to Central Government. No instruction in this regard has been issued by this Ministry."

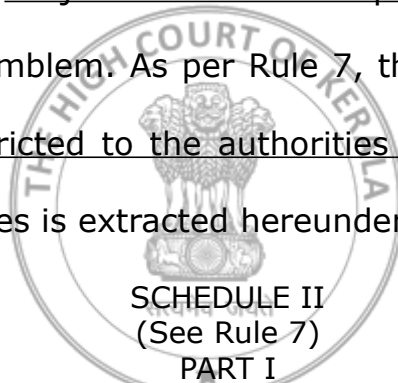
(underline supplied)

13. As per sub-rule (1) of Rule 4 of the State Emblem of India (Regulation of Use) Rules, 2007, a State Government may adopt the emblem as the official Emblem of the State or the union territory, as the case may be, without obtaining the approval of the Central Government. As per sub-rule (2) of Rule 4, where a State Government

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proposes to incorporate the emblem or any part thereof in the Emblem of that State or Union Territory, as the case may be, it shall do so after obtaining the prior approval of the Central Government and shall get the design and layout approved by the Central Government. As per the proviso to sub-rule (2), where a State Government has already incorporated the emblem or part thereof in the Emblem of that State or Union Territory, as the case may be, prior to the coming into force of these rules, it may, subject to the other provisions of these rules, continue to use the emblem. As per Rule 7, the use of the emblem on vehicles shall be restricted to the authorities specified in Schedule II. Schedule II of the Rules is extracted hereunder;



SCHEDULE II
(See Rule 7)
PART I

Constitutional Authorities and other Dignitaries which may Display the Emblem on their Cars

(i) cars of Rashtrapati Bhawan, when the following dignitaries or their spouses are travelling by such vehicles:

- (a) President,
- (b) visiting Heads of foreign States,
- (c) visiting Vice-Presidents of foreign State or dignitaries of equivalent status,
- (d) visiting heads of foreign Governments or dignitaries of equivalent status like Crown Prince or Princess of a foreign State,

(e) the spare car following the car of the President;

(ii) (a) car of Vice-President when he or his spouse is travelling by

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such vehicle;

(b) the spare car following the car of the Vice-President;

(iii) cars of Raj Bhawan and Raj Niwas, if the emblem is adopted by, or incorporated in the Emblem of, that State or the Union territory, when the following dignitaries or their spouses are travelling by such vehicles within the State or the Union territory concerned:

(a) President,

(b) Vice-President,

(c) Governor of the State,

(d) Lieutenant Governor of the Union territory,

(e) Visiting Heads of foreign States,

(f) Visiting Vice-Presidents of foreign States or dignitaries of equivalent status,

(g) Visiting Heads of foreign Governments or dignitaries of equivalent status;

(iv) cars and other means of transport used by the Heads of India's Diplomatic Missions in the countries of their accreditation;

(v) cars and other means of transport used by the Heads of India's Counsellor posts abroad in the countries of their accreditation;

(vi) cars maintained by the Protocol Division of the Ministry of External Affairs when in use for duty with the foreign dignitaries of the rank of Cabinet Ministers and above visiting India, and Ambassadors accredited to India on ceremonial occasions.

PART II

Authorities which may Display the Ashoka Chakra (which is Part of the Emblem) on Triangular Metal Plaques on their Cars

(i) cars of the Prime Minister and Ministers of the Union, Speaker and Deputy Speaker of the Lok Sabha, Deputy Chairperson of the Rajya Sabha when travelling anywhere in India;

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(ii) cars of Chief Justice of India and Judges of the Supreme Court, and Chief Justices and Judges of High Courts within their respective territories;

(iii) cars of Cabinet Ministers in States, Ministers of States in States, Speakers and Deputy Speakers of the State Legislative Assemblies; Chairmen and Deputy Chairmen of Councils of States, Ministers (other than Deputy Ministers) of Union territories with Legislature, and Speakers and Deputy Speakers of Legislative Assemblies in Union territories, when they are travelling within their State or (union territory, as the case may be (if the emblem is adapted by, or is incorporated in the Emblem of, the State or the Union territory)). (underline supplied)

14. The State Emblem of India (Regulation of Use) Rules, 2007 is one made by the Central Government in exercise of its powers under Section 6 of the State Emblem of India (Prohibition of Improper Use) Act, 2005. Under clause (c) of sub-section (2) of Section 6, the Central Government shall have the power to restrict the display of emblem on vehicles of constitutional authorities, foreign dignitaries, Ministers of the Central Government and the State Governments. As per sub-rule (1) of Rule 10, no person (including former functionaries of the Government, like, former Ministers, former Members of Parliament, former Members of Legislative Assemblies, former Judges and retired Government officials), other than those authorised under these rules, shall use the emblem in any manner. As per sub-rule (2) of Rule 10, no

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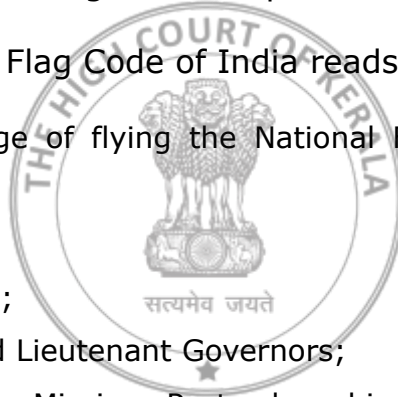
Commission or Committee, Public Sector Undertaking, Bank, Municipal Council, Panchayat Raj Institution, Parishad, non-government organisation, University, other than those authorised under these rules, shall use the emblem in any manner.

15. Chapter IX of the Flag Code of India, 2002 deals with display of National Flag on motor cars. As per Paragraph 3.44 of the Flag Code of India, the privilege of flying the National Flag on motor cars is limited to the dignitaries specified in clauses (1) to (7).

Paragraph 3.44 of the Flag Code of India reads thus;

"3.44 The privilege of flying the National Flag on motor cars is limited to the:-

- (1) President;
- (2) Vice-President;
- (3) Governors and Lieutenant Governors;
- (4) Heads of Indian Missions Posts abroad in the countries to which they are accredited;
- (5) Prime Minister and other Cabinet Ministers; Ministers of State and Deputy Ministers of the Union; Chief Minister and other Cabinet Ministers of a State or Union Territory; Ministers of State and Deputy Ministers of a State or Union Territory;
- (6) Speaker of the Lok Sabha; Deputy Chairman of the Rajya Sabha; Deputy Speaker of the Lok Sabha; Chairmen of Legislative Councils in States; Speakers of Legislative Assemblies in States and Union territories. Deputy Chairmen of Legislative Councils in States; Deputy Speakers of Legislative Assemblies in States and Union territories;



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7) Chief Justice of India; Judges of Supreme Court; Chief Justice of High Courts; Judges of High Courts."

(underline supplied)

16. In Para.128 of the judgment dated 28.10.2019 **[2020 (2) KHC SN 9]** this Court held that, the use of emblem and display of flag shall be permitted only on vehicles carrying the constitutional authorities and other dignitaries specified in Part I and Part II of Schedule II of the State Emblem of India (Regulation of Use) Rules, 2007 / the dignitaries specified in clauses (1) to (7) of Paragraph 3.44 of the Flag Code of India, 2002. The 'Official Emblem of the State Government', after incorporating the 'State Emblem of India' or any part thereof, shall not be displayed on a motor vehicle, other than a vehicle carrying the constitutional authorities specified in Part II of Schedule II of the said Rules.★ Such vehicles shall also display registration mark in the form and manner specified under Rule 50 of the Central Motor Vehicles Rules, 1989 and the size of letters and numerals of the registration mark shall be as specified in Rule 51 the said Rules, which shall be exhibited on a licence plate having the size of 500 × 120 mm. Similarly, the vehicles carrying senior officers of Indian Army, Indian Air Force, Coast Guard, etc., who are permitted to fly official distinguishing flags and display star plates to denote their presence, under the Naval Ceremonial, Conditions of Service and

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Miscellaneous Regulations, 1963 made by the Central Government in exercise of the powers conferred by Section 184 of the Navy Act, 1957 and similar provisions applicable to Indian Army, Indian Air Force, Coast Guard, etc. shall also display registration mark in the manner specified in Rule 74 of the Central Motor Vehicles Rules, 1989.

17. In view of Sub-regulation (3) of Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017, no letter, word, figure, picture or symbol other than the registration number shall be displayed or inscribed or written on the registration plate of a motor vehicle, including a motor vehicle carrying the constitutional authorities and other dignitaries specified in Part I and Part II of Schedule II of the State Emblem of India (Regulation of Use) Rules, 2007 / dignitaries specified in clauses (1) to (7) of Paragraph 3.44 of the Flag Code of India, 2002. Registration mark shall be displayed in such vehicles in the form and manner specified under Rule 50 of the Central Motor Vehicles Rules and the size of letters and numerals of the registration mark shall be as specified in Rule 51 of the said Rules, which shall be exhibited on a licence plate having the size of 500 × 120 mm. In view of the provisions under Rules 50 and 51 of the Central Motor Vehicles Rules and sub-regulation (2) of Regulation 36 of the Motor Vehicles (Driving) Regulations, the registration mark of a motor vehicle shall be displayed

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clearly and legibly using fonts having 'uniform thickness', instead of 'fancy fonts' or 'decorative fonts'. Two images of licence plates/registration plates (500 x 120 mm and 340 x 200 mm) in which the registration mark is displayed clearly and legibly using fonts having 'uniform thickness' are reproduced hereunder;



18. Few images of licence plates/registration plates (500 x 120 mm) in which the registration mark is displayed using 'fancy fonts' or 'decorative fonts' or fonts which do not satisfy the dimension of letters and numerals specified in Rule 51 of Central Motor Vehicles Rules, which do not meet the requirements of the said Rule and also sub-regulation (2) of Regulation 36 of the Motor Vehicles (Driving) Regulations are reproduced hereunder;



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19. In the order dated 09.04.2021, this Court noticed that, despite the specific directions contained in the judgment of this Court dated 28.10.2019 **[2020 (2) KHC SN 9]**, motor vehicles other than those carrying the constitutional authorities and other dignitaries specified in Part I and Part II of Schedule II of the State Emblem of India (Regulation of Use) Rules, 2007 / dignitaries specified in clauses (1) to (7) of Paragraph 3.44 of the Flag Code of India, 2002 are being permitted to be used in public place displaying emblems and flags. In most of such vehicles the registration mark is not displayed in the form and manner specified under Rules 50 and 51 of the Central Motor Vehicles Rules, on a licence plate having the size of 500 × 120 mm. Letters, words and symbols other than the registration mark are inscribed or written on the registration plate of such vehicles, in violation of the provisions under sub-regulation (3) of Regulation 36 of

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the Motor Vehicles (Driving) Regulations, 2017.

20. Pursuant to the direction contained in the order of this Court dated 31.01.2019 in W.P.(C)No.35791 of 2018, the Registrar of Co-operative Societies, Kerala issued Circular No.06/19 dated 11.02.2019 prohibiting display of red or blue colour name boards on the vehicles owned by Co-operative Societies. The said circular reads thus;

സി.പി(3) 679/2019



സഹകരണ സംഘം രജിസ്ട്രാർ

തിരുവനന്തപുരം,

തീയതി: 11.02.2019

സർക്കുലർ നമ്പർ: 06/19

വിഷയം: സഹകരണ വകുപ്പ്- സഹകരണ സംഘം രജിസ്ട്രാറുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സ്ഥാപനങ്ങളിലെ വാഹനങ്ങളുടെ ദൃഢപയോഗം തടയുന്നത് - മാർഗ്ഗനിർദ്ദേശം പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.

സൂചന :

1. ബഹു.കേരള ഹൈക്കോടതിയുടെ 31.01.2019 ലെ WP(c)35791/2018(Y) നമ്പർ ഉത്തരവ്.
2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 17.08.2001 ലെ 32/2001 നമ്പർ സർക്കുലർ നിർദ്ദേശം.

സംസ്ഥാനത്തു ചില സഹകരണ സ്ഥാപനങ്ങളുടെ ഉടമസ്ഥ തയ്യിലുള്ള വാഹനങ്ങൾ ബന്ധപ്പെട്ട സഹകരണ സംഘത്തിന്റെ ഭരണ സമിതി അംഗങ്ങളും, ഉദ്യോഗസ്ഥരും ദൃഢപയോഗം ചെയ്ത് വരുന്നതായും, ചില സഹകരണ സംഘങ്ങൾ, അവരുടെ ഉടമസ്ഥതയിലുള്ള വാഹനങ്ങളിൽ ചുവപ്പ്, നീല നിറങ്ങളിലുള്ള നെയിം പ്ലേറ്റുകൾ അന്ധകൃമായി ഉപയോഗിച്ച് വരുന്നത് നിയന്ത്രിക്കുന്നതിന് നടപടി സ്വീകരിക്കേണ്ടതുണ്ടെന്നും ബഹു.കേരള ഹൈക്കോടതി സൂചന (1) പ്രകാരം നിരീക്ഷിച്ച് ഉത്തരവായിട്ടുണ്ട്. ടി സാഹചര്യത്തിൽ സംസ്ഥാനത്തെ സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണ

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നിയന്ത്രണത്തിലുള്ള എല്ലാ സഹകരണ സ്ഥാപനങ്ങളും അവരുടെ ഉടമസ്ഥതയിലുള്ള വാഹനത്തിന്റെ ലോഗ് ബുക്ക്, ട്രിപ്പ് ഷീറ്റ് എന്നിവ സൂക്ഷിക്കേണ്ടതുൾപ്പെടെയുള്ള സൂചന (2) സർക്കുലർ വ്യവസ്ഥകൾ കർശനമായി പാലിക്കേണ്ടതാണ്. അതോടൊപ്പം സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണ നിയന്ത്രണത്തിലുള്ള സഹകരണ സ്ഥാപനങ്ങൾ അവരുടെ ഉടമസ്ഥതയിലുള്ള വാഹനങ്ങളിൽ ചുവപ്പ്, നീല നിറങ്ങളിലുള്ള നെയിം പ്ലേറ്റുകൾ ഉപയോഗിക്കാൻ പാടില്ലാത്തതും, നെയിം പ്ലേറ്റുകളിൽ സ്ഥാപനങ്ങളുടെ പേര് അലേഖനം ചെയ്യാൻ പാടില്ലാത്തതുമാണ്. വാഹന ദൃഢപയോഗം ശ്രദ്ധയിൽ പെട്ടാൽ ബന്ധപ്പെട്ട സഹകരണ സ്ഥാപനങ്ങൾക്കെതിരെ കർശന നടപടി സ്വീകരിക്കുന്നതും സ്ഥാപനത്തിനുണ്ടായ നഷ്ടം ഉത്തരവാരികളിൽ നിന്നും ഈടാക്കുന്നതിനുള്ള നടപടി സ്വീകരിക്കുന്നതുമാണ്. സഹകരണ വകുപ്പിലെ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർ ടി നിർദ്ദേശങ്ങൾ അവരവരുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സ്ഥാപനങ്ങളുടെ ശ്രദ്ധയിൽ കൊണ്ട് വരേണ്ടതും അവ പാലിക്കപ്പെടുന്നുണ്ടെന്ന് ഉറപ്പ് വരുത്തേണ്ടതുമാണ്.

ഒപ്പ്

എസ്.ഷാനവാസ്.പ്രൊ.എ.എസ്

സഹകരണ സംഘം രജിസ്ട്രാർ

(underline supplied)

21. In the order dated 09.04.2021, this Court noticed that, despite the specific directions contained in the judgment of this Court dated 28.10.2019 **[2020 (2) KHC SN 9]**, the name of the Government, the Government Department or institution is being permitted to be written on the registration plate of motor vehicles, in violation of sub-regulation (3) of Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017. Such name boards are being permitted on motor vehicles owned by Co-operative Societies registered under the Kerala Co-operative Societies Act, 1969; Societies registered under the

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Societies Registration Act, 1860, the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, etc.; and even on vehicles owned by Non-Governmental Organisations (NGO's), Public Private Partnerships, etc. In violation of the provisions under Section 3 of the Emblems and Names (Prevention of Improper Use) Act, 1950 the name of the State Government is permitted to be exhibited on motor vehicles other than those owned/used by the State Government Departments and the name of the High Court is permitted to be exhibited on motor vehicles used by the Law Officers and the Central Government Counsel of this Court. In view of the prohibition contained in Section 3 of the Emblems and Names (Prevention of Improper Use) Act, the provisions under clause (x) of Rule 92A of the Kerala Motor Vehicles Rules, 1989, substituted by the Kerala Motor Vehicles (4th Amendment) Rules, 2015, will not entitle the Law Officers and the Central Government Counsel to exhibit the name of this Court on their motor vehicles. In violation of sub-regulation (3) of Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017, the designation of Law Officers and Central Government Counsel in this Court is being permitted to be written on the registration plate of their motor vehicles.

22. In **Avishek Goenka v. Union of India [(2012) 5 SCC 321]**, after referring to the provisions under Rules 100, 104, 104A,

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106, 119 and 120 of the Central Motor Vehicles Rules, 1989, 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 vehicle, but also the safety of other users of the road. 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, 1988, the provisions of the said Act and more particularly, the rules framed thereunder.

23. As already noticed in the order dated 06.04.2022, many vehicles are seen plying in the State, carrying the name board "Government of India", "Government of Kerala", "Kerala State",

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"Government Vehicle", etc. to mislead the Police, the Enforcement Officers of the Motor Vehicles Department, etc. by giving an impression that the said vehicles are owned by a Government Department. Persons in such vehicles are pretending as if they are Government servants and they are misusing such name boards to escape from the checking of vehicle by the Police, Enforcement Officers of the Motor Vehicles Department, etc., and to avoid payment of toll at the toll booths. It is the duty of the Police and the Enforcement Officers of the Motor Vehicles Department to keep an eye on such vehicles, subject them to thorough checking, besides verifying the identity of persons in it, and initiate appropriate proceedings in accordance with law. Several vehicles with such name boards are pasted with cooling films on the safety glass or fitted with sliding cloth curtains. The enforcement agencies in the Motor Vehicles Department and the Police are not taking any action against the use of such vehicles on public place. As per sub-rule (1) of Rule 108 of the Central Motor Vehicles Rules, 1989 no motor vehicle shall show a red light to the front or light other than red to rear. Some of the vehicles are even fitted with 'backlit name boards' showing red light to the front, in violation of the provisions under sub-rule (1) of Rule 108 of the said Rules.

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24. Rule 108 of the Central Motor Vehicles Rules deals with use of red, white or blue light. As per sub-rule (4) of Rule 108, use of multi-coloured red, blue and white light shall be permitted only on vehicles specifically designated for such emergency and disaster management duties as may be specified by the Central Government. Rule 108 reads thus;

"108. Use of red, white or blue light.-- (1) No motor vehicle shall show a red light to the front or light other than red to rear:

Provided that the provisions of this rule shall not apply to -

- (i) the internal lighting of the vehicle; or
 - (ii) the amber light, if displayed by any direction indicator or as top light used on vehicle for operating within the premises such as airports, ports, mines and project sites, without going outside the said premises on to public roads;
 - (iii) [omitted]
 - (iv) the blinker type of red light with purple glass fitted to an ambulance van used for carrying patients or the warning lamps fitted on Road Ambulance in accordance with Annexure I of AIS - 125 (Part - 1) - 2014;
 - (v) [omitted]
 - (vi) white light illuminating the rear number plate;
 - (vii) white light used while reversing;
 - (viii) plough light provided in agricultural tractors for illuminating the implement's working area on the ground in agricultural field operations.
- (2) [omitted]
- (3) [omitted]

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(4) Use of multi-coloured red, blue and white light shall be permitted only on vehicles specifically designated for such emergency and disaster management duties as may be specified by the Central Government.

(5) omitted

(6) On and after the 1st April, 2018, the top lights (warning lamps) fitted on Road Ambulances shall be in accordance with AIS:125 (Part 1)- 2014, as amended from time to time, for all types of ambulances specified therein, till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986 (63 of 1986)."

25. In exercise of powers conferred under sub-rule (4) of Rule 108 of the of the Central Motor Vehicles Rules, the Central Government, vide Notification No.1374(E) dated 01.05.2017 specified that the vehicles on office duty which are designated for the following emergency and disaster management duties may be allowed to use multi-coloured red, blue and white light on its top, namely, (a) the duties relating to control of fire; (b) the duties by police, defence forces or paramilitary forces for maintenance of law and order; (c) the duties relating to management of natural disasters including earthquake, flood, landslide, cyclone, tsunami and man made disasters including nuclear disaster, chemical disaster and biological disaster. As per the said notification, the multi-coloured light shall not be put to use when the vehicle is not on the designated duty. Every year, the Transport

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Department of the State or Union Territory Administration, as the case may be, shall issue a public notice bringing to the notice of the general public the list of authorities to whom the permission to use the vehicles specified in clauses (a) and (b) has been granted and such vehicles shall display on its windscreen the sticker issued by such Transport Department, which shall be in the format prescribed in the notification dated 01.05.2017. As per the said notification, only one sticker shall be issued to the designated officer for one vehicle at one point of time. In view of the law laid down by the Apex Court in **Avishek Goenka (2012 (5) SCC 321)** use of multi-coloured red, blue and white light on the top of vehicles which are not designated for emergency duties as enumerated in clauses (a) and (b) of Notification No.1374(E) dated 01.05.2017 or the use of multi-coloured light when such vehicles are not on the designated duty, is legally impermissible.

26. Despite the directions contained in the judgment dated 28.10.2019 **[2020 (2) KHC SN.9]** and the circulars issued by the State Police Chief and the Home Department, sun control films/sliding cloth curtains are even now pasted/fixed on the rear window and the side windows of motor vehicles, including Government vehicles. Most of such vehicles are fitted with unauthorised name board, emblem, flag and even unauthorised multi-coloured red, blue and white light, which

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is permitted only on vehicles designated for emergency and disaster management duties, as specified in Notification No.1374(E) dated 01.05.2017 issued by the Central Government.

27. As per the provisions under Rule 92A of the Kerala Motor Vehicle Rules, the vehicles owned by the State Government Departments can exhibit a name board having a size of 30 cm x 10 cm on which the name of the Department to which that vehicle belongs shall be exhibited in white letters on red background. Vehicles owned by public sector undertakings and even autonomous bodies, statutory boards, etc. are exhibiting name board "Government of Kerala", "Kerala State", "Government Vehicle", etc. Some of the vehicles, which are carrying the name board "Government of Kerala", are even fitted with multi-coloured red, blue and white lights intended for vehicles designated for emergency and disaster management duties.

28. Despite the specific directions contained in the judgment of this Court dated 28.10.2019 [**2020 (2) KHC SN 9**], large number of motor vehicles are being permitted to be used in public place, in violation of the safety standards prescribed in AIS-008/AIS-009/2001/ AIS-030/2001, which are likely to endanger the safety of other road users. The light emitted from the additional headlamps/lamps installed on the face cowl is capable of dazzling the drivers of the oncoming

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vehicles directly, and also the drivers of the vehicles proceeding in front, indirectly, through the rear-view mirrors and/or other reflecting surfaces of their vehicle. Large number of motor vehicles, especially motor cars are being permitted to be used in public place after replacing the prototype approved reflectors on the rear bumper with after-market LED brake lights/direction indicator lights. Flashing lamps are being permitted to be used in lamps other than direction indicators and hazard-warning signal, in violation of Para.5.9 of AIS-008. Large number of motor vehicles, especially stage carriages, contract carriages and goods vehicles are being permitted to be used in public place with red flashing stop lamps, flashing lamps inside headlight assembly, flashing lamps on the roof top of the cabin, etc. The light emitted from such lamps is capable of dazzling the drivers of the oncoming vehicles and also the pedestrians. Large number of motor vehicles, especially motor cars and motor cycles are being permitted to be used in public place after 'tinting' lighting, light-signalling devices (i.e., headlights, tail lights, indicators, daytime running light, etc.) or reflectors by fixing vinyl tint film sticker. Video contents of such alterations and also the use of such vehicles in public place are being uploaded on online video platforms like 'YouTube' by the registered owners of such vehicles or by the vloggers. Few images of such vehicles used in public place in

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violation of the safety standards prescribed in AIS-008/AIS-009/2001/AIS-030/2001 are reproduced hereinbefore at paragraph 6.

29. Section 190 of the Motor Vehicles Act, which deals with using vehicle in unsafe condition, was amended by Section 72(i) (a) to (c) of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.09.2019. As per sub-section (2) of Section 190, 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. As per sub-section (4) of Section 206 of the 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, if he has reason to believe that the driver of a motor vehicle has committed an offence under any of Sections 183, 184, 185, 189, 190,

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194C, 194D, or 194E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under Section 19. In view of the provisions under the second proviso to sub-section (2) of Section 200 of the Act, compounding of an offence will not discharge the offender from proceedings under sub-section (4) of Section 206 or the obligation to complete a driver refresher training course, or the obligation to complete community service, if applicable.

30. Therefore, any person, who drives or causes or allows to be driven in any public place a motor vehicle violating the safety standards prescribed in AIS-008/AIS-009/2001/AIS-030/2001, 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 after replacing the prototype approved lights, light-signalling devices and reflectors with after-market multi-coloured LED/laser/neon lights, flash lights, etc., shall be proceeded against under sub-section (2) of Section 190 of the said Act for an offense 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

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specified in that sub-section. 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.

31. The learned Special Government Pleader would submit that the additional 3rd respondent Transport Commissioner, through the concerned officers in the Motor Vehicles Department, is taking earnest efforts to comply with the directions contained in Paras. 126 to 131 of the judgment dated 28.10.2019 **[2020 (2) KHC SN.9]**. The State Police Chief has issued Circular No.69/CAMP/ADGP(HQ)/2019 dated 14.12.2020, whereby all officers in Police Department are directed to remove contraband articles (window curtains, bull-bars, sun films, etc.), if any, from all the vehicles of the Police Department. In the said circular, it is stated that, it will be the personal responsibility of the officers to ascertain that department vehicles under their control are not fitted with these contraband articles. Vide Circular No.G3/858/2019/Home dated 30.12.2020 issued by the Government of

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Kerala, Home Department, whereby all Government Departments are instructed to ensure that none of the vehicles under their administrative control use curtains/dark films or any material, which affects the visual transmission percentage, through the windscreens/windows, as stipulated in the Motor Vehicles Act.

32. Large number of motor vehicles are being used on public place without displaying registration marks appropriately. Motor vehicles which violates the safety standards relating to lighting, light-signaling devices, which are capable of dazzling the drivers of the oncoming vehicles and likely to endanger the safety of other road users are being permitted to be used on public place. The additional 3rd respondent Transport Commissioner shall take necessary steps to ensure strict compliance of the directions contained in Paras. 126 to 131 of the judgment dated 28.10.2019, through the concerned officers of the Motor Vehicles Department, against motor vehicles which violates the safety standards relating to lighting, light-signaling devices; vehicles fitted with unauthorised name board, emblem, flag and also multi-coloured red, blue and white lights intended for vehicles on designated emergency and disaster management duties; vehicles used on public place without displaying registration marks appropriately; vehicles pasted with cooling films on safety glass or

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fitted with sliding cloth curtains; etc.

33. The learned Special Government Pleader would submit that the additional 3rd respondent Transport Commissioner requires some time to file action taken report.

34. The learned ASGI would submit that the display of State Emblem of India or any part thereof is permitted only on vehicles of constitutional authorities and other dignitaries specified in Parts I and II of Schedule II of the State Emblem of India (Regulation of Use) Rules, 2007 and that, the privilege of flying the National Flag on motor cars is limited to the dignitaries specified in clauses (1) to (7) of paragraph 3.44 of the Flag Code of India. The vehicles carrying senior officers of the Armed Forces are permitted to fly official distinguishing flags and display star plates to denote their presence, under the relevant regulations made by the Central Government. The learned ASGI would submit that the Secretary (Road, Transport and Highways), Ministry of Road Transport and Highways shall issue necessary directions to prevent unauthorised use of name board, emblem, flag, sliding cloth curtains, etc. on motor vehicles owned or used by the Central Government Departments, through the concerned Ministries. The learned ASGI seeks time to get instructions from the Secretary (Road, Transport and Highways).

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List on 15.06.2022 at 4.00 p.m.

Registry to communicate a copy of this order to the State Police Chief and also to the Secretary to Government, Home Department, who shall ensure strict compliance of the directions contained in the circulars dated 14.12.2020 and 30.12.2020.

Sd/-
ANIL K. NARENDRA,
JUDGE

yd



APPENDIX OF WP(C) 23021/2018

EXT.P5

**A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF
KL-09/L 8719**

