

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

FRIDAY, THE 09TH DAY OF APRIL 2021 / 19TH CHAITHRA, 1943

WP(C) NO. 23021 OF 2018

PETITIONER:

THE PRINCIPAL, SABARI PTB SMARAKA H.S.S
ADAKKAPUTHUR, OTTAPALAM.

BY ADVS P.DEEPAK

RESPONDENTS:

- 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,
KERALAL, TRANSPORT COMMISSIONERATE, 2ND FLOOR,
TRANS TOWERS, VAZHUTHACAUD, THYCAUD P.O,
THIRUVANANTHAPURAM-695 014
R3 IS SUO MOTU IMPEADED AS PER ORDER DATED 28-10-
2019 IN WP(C)23021/2018.

BY ADV.SRI.P.SANTHOSH KUMAR, SPECIAL GOVERNMENT
PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN HEARD ON 09.04.2021,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

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, 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.

2. In **Ma'Din Public School v. Regional Transport Officer [2019 (2) KLT 1011]** this Court noticed that, despite the direction of the Division Bench in **Siddique P.K.A. v. Regional Transport Authority, Kozhikode [ILR 2013 (1) Ker 829]**, the State Government has not so far prescribed any conditions, in exercise of its powers under clause (xiii) of sub-section (2) of Section 74 of the Motor Vehicles Act, in order to prevent the conversion and use of stage carriages and contract carriages, which are discarded for road use practically and functionally, as Educational Institution Buses, for the purpose of transportation of school children, where safety of the children has to be the prime concern. The absence of any such condition imposed by the State, in exercise of its powers under clause (xiii) of sub-section (2) of Section 74 of the Act, prompted the petitioner in that writ petition to make an attempt to seek alteration of the class of the vehicle, which was lying idle since 01.09.2016, as it was not roadworthy, to use it as Educational Institution Bus, showing scant regard to the safety of the children, which should be the prime concern of a school, while providing transportation facility to its children.

3. In **Ma'Din Public School**, the Transport Commissioner, Kerala, who was suo motu impleaded as the additional 2nd respondent, was directed to take necessary steps to ensure that no application for altering the class of a stage carriage or a contract carriage as Educational Institution Bus shall be entertained by any Registering Authority in the State, without the vehicle being produced for inspection, along with its current records, and after satisfying that such request is in respect of a vehicle which is roadworthy. Further, the application for altering the class of vehicle shall contain the particulars of the alterations proposed, and the Registering Authority shall consider that request strictly in accordance with the provisions under Section 52 of the Motor Vehicles Act, 1988 and the law laid down by the Apex Court in **Regional Transport Officer v. K. Jayachandra [(2019) 3 SCC 722]** and that laid down by this Court in **Raju Chacko v. State of Kerala [2019 (1) KHC SN 32 : 2019 (1) KLT 668]**. Registry was directed to forward a copy of the judgment to the Principal Secretary, Transport, Government of Kerala; the Director of Public Instruction, Kerala; and the Regional Officer, Central Board of Secondary Education, Thiruvananthapuram for information and

necessary action to ensure safety of children in the transportation facility provided in every school in the State.

4. In the instant case, 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. In the judgment dated 28.10.2019, 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 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. Paras.115 to 118 of the said judgment read thus;

"115. As evident from the photographs placed on record along with the inspection report dated 08.08.2019 and the affidavit of the additional 2nd respondent dated 26.10.2019, this Court noticed after modifying the face cowl, the petitioner's vehicle is fitted with two headlamps on either side, out of which one headlamp on either side is installed at a different height. After removing the front bumper, the face cowl is extended up to the level of 'running board' along the side of the vehicle. The two headlamps on either side are now installed on the face cowl at a higher level and the light emitted from the main-beam headlight and dipped-beam headlight fitted at such height 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 the main-beam headlight and dipped-beam headlight fitted at such height is also capable of dazzling the pedestrians. Similarly, the front position lamps fitted on the front cowl will not indicate the width of

the vehicle when viewed from the front. The direction indicators fitted on the face cowl and the tail lamp clusters fitted in the rear, by the manufacturer, after obtaining prototype approval for those components, as per the mandate of Rule 124 of the Central Motor Vehicles Rules, are not maintained as such. The reference axis of the stop lights, rear position lamps and direction indicators on the rear of the vehicle are not parallel to the bearing plane of the vehicles on the road, as provided under Para.5.3 of AIS-008, and the petitioner has replaced the prototype approved tail lamp clusters with a non-OEM (Original Equipment Manufacturer) lighting. Therefore, the lighting and light-signalling devices fitted on the petitioner's vehicle are not in conformity with the standards for installation in Safety Standards No. 15.1, followed by AIS-008/2001 and S.O.1365(E) dated 13.12.2004.

116. The registration mark on the front of the petitioner's vehicle is not displayed on a licence plate having the size of 340 × 200 mm, as specified in clause (vi) of sub-rule (1) of Rule 50 of the Central Motor Vehicles Rules, and in the manner specified in sub-rule (3) of Rule 50, i.e., in two lines, the State code and registering authority code forming the first line and rest forming the second line, one below the other. The registration mark exhibited on the rear of the petitioner's vehicle, on the right hand side, is at a distance exceeding one meter from the ground, contrary to the provisions of clause (a) of sub-rule (2) of Rule 50, and the vehicle is not fitted with 'rear registration plate (mark) illuminating lamp' (prototype approved tail lamp cluster) to illuminate the space accommodating the rear registration mark. The dimension of letters and figures of the registration

mark exhibited on the petitioner's vehicle and the space between different letters and numerals and letters and edge of the plain surface are not as provided in Rule 51. The registration mark on the petitioner's vehicle is not displayed clearly and legibly using fonts having 'uniform thickness'. The display of registration mark on the petitioner's vehicle, using 'fancy fonts' or 'decorative fonts', is in violation of Rules 50 and 51 of the Central Motor Vehicles Rules and also Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017. As evident from Annexure R2(b) photograph produced along with the affidavit of the additional 2nd respondent dated 26.10.2019 [at page 7], the petitioner's 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 'backrest' of the last row seats fitted in the petitioner's vehicle, which covers nearly half of the glass area of the rear windscreen, obstructs passage of children through the so called emergency exit.

117. 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 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.

118. In order to use the vehicle covered by Ext. P5 certificate of Registration in any public place, the petitioner has to comply with the safety standards for installation of lighting, light-signalling devices and retro-reflectors; and also the provisions under the Central Motor Vehicles Rules and the Kerala Motor Vehicles Rules, referred to hereinbefore. In addition to this, the petitioner's vehicle will have to be fitted with Vehicle Location Tracking Device and Panic Buttons as per Rule 125H of the Central Motor Vehicles Rules and Rule 151 of the Kerala Motor Vehicles Rules, with effect from the appointed date. The petitioner shall produce the vehicle for inspection before the 1st respondent Additional Registering Authority, after complying with safety standards and the statutory requirements referred to hereinbefore. On such production, the 1st respondent shall cause the vehicle to be inspected by an inspecting officer duly appointed under Section 213 of the Motor Vehicles Act, in order to satisfy that the vehicle complies with the safety standards and also 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 as an Educational Institution Bus. The exercise in this regard shall be undertaken and a decision on

the request made by the petitioner for change of the class of vehicle as Educational Institution Bus shall be taken by the 1st respondent authority, strictly in accordance with law, as expeditiously as possible, at any rate, within one month from the date of production of the vehicle.”

5. In the judgment dated 28.10.2019 this Court found that, in order to ensure the safety of road users, the standards prescribed in AIS-008 deal with every minute detail of the installation of lighting and light-signalling devices and retro-reflectors for motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle. In view of the prohibition contained in Para.5.1, no such motor vehicle shall be permitted to be installed with any lighting and light-signalling devices or retro-reflectors, other than those referred to in Para.6.0 of AIS-008. Use of such a motor vehicle in a public place without complying with the installation requirements of lighting and light-signalling devices and also retro-reflectors as per AIS-008 is likely to endanger the safety of other road users. Therefore, a motor 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, namely,

number, position, width, height, length, geometric visibility, orientation, etc., shall not be permitted to be used in any public place. Similarly, a motor 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, shall not be permitted to be used in any public place. Paras.119 to 121 of the said judgment read thus;

"119. The provisions of AIS-008 referred to hereinbefore [in paragraphs 7.2 to 7.12 of this judgment] deal with every minute detail of installation of lighting, light-signalling devices and retro-reflectors for motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle. The lighting, light-signalling devices and retro-reflectors permitted to be installed on such motor vehicles have been specifically provided for in AIS-008. In view of the prohibition contained in Para.5.1, no such motor vehicle shall be permitted to be installed with any lighting and light-signalling devices or retro-reflectors, other than those referred to in Para.6.0 of AIS-008. The combined reading of the definition clauses of AIS-008 dealing with headlamp, direction-indicator lamp, stop lamp, rear registration plate (mark) illuminating lamp, front position lamp, rear position lamp, hazard warning signal, etc., and the individual specifications of those lighting, light-signalling devices and also retro-reflectors specified in Paras.6.1 to 6.20 of AIS-008, leads to an irresistible conclusion that, in order to ensure the safety of road users, the standards prescribed in AIS-008 deal with every minute

detail of the installation of lighting and light-signalling devices for such motor vehicles.

120. As already noticed, the individual specifications, namely, position, height, length, geometric visibility, orientation, etc. of those lighting, light-signalling devices and retro-reflectors are specified in Paras.6.1 to 6.20 of AIS-008 to ensure appropriate manner of construction and maintenance motor vehicle, so that the light emitted from the 'main-beam headlight' and 'dipped-beam headlight' fitted at the front of the vehicle shall not cause discomfort to the driver either directly or indirectly through the rear-view mirrors and/or other reflecting surfaces of the vehicle; the 'front position lamp' and the 'rear position lamp' indicates the presence and the width of the vehicle when viewed from the front/rear; the 'retro-reflector' indicates the presence of a vehicle by the reflection of light; etc. When a vehicle temporarily constitutes a special danger to other road users, 'hazard warning signal' has to be shown by simultaneous operation of all the direction indicator lamps of that vehicle to draw the attention of other road users.

121. Use of a motor vehicle (having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle motor vehicle) in a public place without complying with the installation requirements of lighting and light-signalling devices and also retro-reflectors as per AIS-008 is likely to endanger the safety of other road users. Therefore, a motor 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, namely, number, position, width, height, length, geometric visibility, orientation, etc., shall not be permitted to be used in any public place. Similarly, a motor 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, shall not be permitted to be used in any public place.”

6. In the judgment dated 28.10.2019 this Court noticed that, as evident from the photographs placed on record, despite the direction issued by this Court in **Ma'Din Public School [2019 (2) KLT 1011]** and **Saji [2019 (3) KHC 836]** vehicles which are not installed with lighting and light-signalling devices and also retro-reflectors referred to in Para.6.0 of AIS-008, conforming to the individual specifications for such lighting and light-signalling devices and retro-reflectors prescribed in Paras.6.1 to 6.20, namely, number, position, width, height, length, geometric visibility, orientation, etc.; and vehicles, which are installed with lighting and light-signalling devices or retro-reflectors other than those referred to in Para.6.0, 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. The registration marks of such vehicles are not displayed on a licence plate as per the mandate of clause (vi) of sub-rule (1) of Rule 50 of the Central

Motor Vehicles Rules. Such vehicles are being used in public place after tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows, by pasting stickers, tint films, etc. upon the safety glass, in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules. 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. Paras.123 and 124 of the said judgment read thus;

"123. The photographs placed on record would make it explicitly clear that, despite the direction issued by this Court in **Ma'Din Public School [2019 (2) KLT 1011]** and **Saji v. Deputy Transport Commissioner [2019 (3) KHC 836]** vehicles which are not installed with lighting and light-signalling devices and also retro-reflectors referred to in Para.6.0 of AIS-008, conforming to the individual specifications for such lighting and light-signalling devices and retro-reflectors prescribed in Paras.6.1 to 6.20, namely, number, position, width, height, length, geometric visibility, orientation, etc.; and vehicles, which are installed with lighting and light-signalling devices or retro-reflectors other than those referred to in Para.6.0, 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. The registration marks of such vehicles are not displayed on a licence plate having the specification 340 × 200mm, as per the mandate of clause (vi) of sub-rule (1) of Rule 50 of the Central Motor Vehicles Rules; the dimension of letters and figures of the registration mark and the space between different letters and numerals and letters and edge of the plain surface are not as per the mandate of Rule 51 (not less than:- Height:**65mm**; Thickness:**10mm**; Space between:**10mm**); and the registration mark is not displayed clearly and legibly using fonts having 'uniform thickness', instead the registration mark is displayed using 'fancy fonts' or 'decorative fonts', in violation of Rules 50 and 51 of the Central Motor Vehicles Rules and also Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017. Such vehicles are being used in public place after tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows, by pasting stickers, tint films, etc. upon the safety glass, in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules.

124. As per Rule 278 of the Kerala Motor Vehicles Rules, every public service vehicle other than an autorickshaw 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. 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.”

7. On noticing that, despite the direction issued by this Court in **Ma'Din Public School [2019 (2) KLT 1011]** and **Saji [2019 (3) KHC 836]**, 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, who was directed to file action taken report before this Court on or before 04.04.2020. Paras.126 to 131 of the said judgment read thus;

“126. The Transport Commissioner, Kerala shall take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle, which are not installed with lighting and light-signalling devices and also retro-reflectors referred to in Para.6.0 of AIS-008, conforming to the individual specifications for such lighting and light-signalling devices and retro-reflectors prescribed in Paras.6.1 to 6.20, namely, number, position, width, height, length, geometric visibility, orientation, etc.; or which are installed with lighting and light-signalling devices or retro-

reflectors other than those referred to in Para.6.0, which are likely to endanger the safety of other road users, are being permitted to be used in any public place. Similarly, no two and three wheelers, its trailer and semi-trailer governed by AIS-009/2001 and no agricultural tractors governed by AIS-030/2001, which are not installed with lighting and light-signalling devices and retro-reflectors referred in the respective standards, conforming to the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc.; or which are installed with lighting and light-signalling devices or retro-reflectors other than those referred to therein, which are likely to endanger the safety of other road users, shall be permitted to be used in any public place. No motor vehicle shall be permitted to be used in any public place after putting any object in front of such lighting, light-signalling devices or reflectors or after 'tinting' such lighting, light-signalling devices (i.e., headlights, tail lights, indicators, etc.) or reflectors by fixing vinyl tint film sticker. No transport vehicle, including an Educational Institution Bus, which does not comply with the provisions of the Motor Vehicles Act and the Rules made thereunder, and also the safety standards referred to above, shall be issued with fitness certificate. The fitness certificate, if any, issued to any transport vehicle which does not comply with the provisions of the Motor Vehicles Act and the Rules made thereunder, and also the safety standards referred to above shall be cancelled, as per the procedure contemplated under subsection (4) of Section 56 of the Motor Vehicles Act, by the prescribed authority, for reasons to be recorded in writing.

127. The Transport Commissioner, Kerala shall take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in AIS-008/AIS-009/2001/ AIS-030/2001, etc. in relation to road safety, is proceeded against, in view of the provisions under sub-section (2) of Section 190 of the Motor Vehicles Act, as substituted by Section 72 of the Motor Vehicles (Amendment) Act, 2019 and the driver of the vehicle shall be disqualified for holding licence for a period of three months. In view of the provisions under sub-section (4) of Section 182A, the owner of the motor vehicle shall also be proceeded against for altering the said vehicle in a manner not permitted under the Motor Vehicles Act and the Rules and regulations made thereunder.

128. The Transport Commissioner, Kerala shall take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no motor vehicle, including transport vehicle, is permitted to be used in any public place, without displaying the registration mark on a licence plate having the specification prescribed in clause (vi) of sub-rule (1) of Rules 50 and 51 of the Central Motor Vehicles Rules and Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017; and without 'rear registration plate (mark) illuminating lamp', illuminating the space accommodating the rear registration plate. The registration mark on every motor vehicle shall be displayed clearly and legibly using fonts having 'uniform thickness'. The display of registration mark using 'fancy fonts' or 'decorative fonts', shall not be permitted. 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; and the size of letters and numerals of the registration mark shall be as specified in Rule 51, which shall be exhibited on a licence plate having the size of 500 × 120 mm. 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. Similarly, the motor cars carrying senior officers of Indian Army, Indian Air Force, Coast Guard, etc., which are permitted to fly official distinguishing flags and display star plates to denote their presence, shall display the registration mark in the manner specified in Rule 74 of the Central Motor Vehicles Rules.

129. The Transport Commissioner, Kerala shall take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no motor vehicle,

including a Government vehicle, is permitted to be used in any public place, after 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 upon the safety glass or by fixing sliding cloth curtains, etc., in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules. No public service vehicle shall be 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.

130. The Transport Commissioner, Kerala shall take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that the emergency exit of all public service vehicles, including Educational Institution Buses, is maintained as per the statutory requirements, without any obstruction for the evacuation of passengers/children, in case of emergency.

131. The additional 3rd respondent Transport Commissioner shall file action taken report before this Court on or before 04.04.2020."

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

9. On 15.01.22021, 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 Police Department are directed to remove contraband articles (window curtains, bull bars, sun films, etc.), if any, from all the vehicles of Police department. In the 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. The said circular reads thus;

"Refer Government Letter No.106745/G3/2012/ Home dated 22.02.2013 & Letter NO-RT-11021/38/2017-MVL dated 07.12.2017 of Ministry of Road Transport and Highways regarding the removal of contraband articles like window curtains, bull bars, sun films, etc. from the vehicles. The Hon'ble High Court has also given strict instructions to remove such contraband articles from Govt vehicles. Existence of these contraband articles on Government vehicles will give a negative message to the general public that Government machinery is taking action against private vehicles, but violating the same in their own vehicles. You are directed to remove the contraband articles (window curtains, bull bars, sun films, etc.), if any, from all the vehicles of Police department and it will be the personal responsibility of the officers to ascertain that department vehicles under their control are not fitted with these

contraband articles. Ensure strict compliance.”
(underline supplied)

9.1. Along with the memo filed on 15.01.2021, the learned Special Government Pleader has also placed on record 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. The said circular reads thus;

“The Hon’ble Supreme Court of India vide its Judgment dated 27.04.2012, in W.P.(C)No.265/2011 prohibited the use of black films of any visual light transmission percentage or any other material upon the safety glasses, windscreens (front and rear) and side glasses of vehicles in terms of Rule 92 and Rule 100 of the Rules made under the Motor Vehicles Act, 1988. Within the latitude granted by the Hon'ble Apex Court, as per the Government Order cited 2nd above [G.O. (Ms.)No.310/2012/Home dated 10.12.2012], the persons provided with Z and Z+ category were exempted from the ambit of the ban imposed by Hon'ble Apex Court and it was ordered that State Police Chief, Kerala and Commissioner of Transport Kerala will initiate rigid legal action against other

erring vehicles. The Hon'ble High Court of Kerala has also reiterated the Apex court's directions in its judgment dated 21.12.2018 in WP(C)No.25876/2018 [Jijith and others v. State of Kerala and others - 2019 (1) KHC 463] for strict enforcement.

2. It has come to the notice of Government that many Government vehicles are still using window curtains and dark films in contravention of directions contained in the Judgments of Hon'ble Supreme Court and Hon'ble High Court. 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.

3. The law enforcement agencies shall ensure the implementation of this circular and compliance of the judgements mentioned in the aforementioned paras."

(underline supplied)

9.2. On 01.02.2021, the learned Special Government Pleader submitted that, for the period from 17.01.2021 to 20.01.2021, under the special drive 'Operation Screen', 5,775 vehicles were booked for using cooling films, curtains, etc. On 23.03.2021, the Joint Transport Commissioner (Enforcement) has filed a statement for and on behalf of the additional 3rd respondent Transport Commissioner, wherein it is stated that in the special drive 'Operation Screen' an amount of Rs.14,43,709/- has been

recovered for fixing cooling films and sliding curtains in motor vehicles.

9.3. The learned Special Government Pleader would submit that the enforcement officers in the Motor Vehicles Department and also the police shall ensure strict compliance of the directions contained in the judgment of the Apex Court and that of this Court prohibiting the use of cooling films, curtains, etc. on the windscreen, rear window and side windows of motor vehicles. They shall also ensure strict compliance of the directions contained in Circular No.69/CAMP/ADGP (HQ)/2019 dated 14.12.2020 of the State Police Chief and that contained in Circular No.G3/858/2019/Home dated 30.12.2020 issued by the Government of Kerala, Home Department.

10. In the judgment dated 28.10.2019 this Court held that, a motor 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, namely, number, position, width, height, length, geometric visibility, orientation, etc.; or a motor vehicle governed by AIS-008, which is installed

with lighting and light-signalling devices or retro-reflectors other than those referred to in Para.6.0, cannot be said to be a motor vehicle that complies with the provisions of the Motor Vehicles Act and the Rules made thereunder. Such a vehicle, which is likely to endanger the safety of other road users, shall not be issued with fitness certificate in Form 38, certifying that the vehicle complies with the provisions of the Motor Vehicles Act and the Rules made thereunder. The fitness certificate, if any, issued to such a vehicle is liable to be cancelled, as per the procedure contemplated under sub-section (4) of Section 56 of the Motor Vehicles Act. In view of the provisions under sub-section (2) of Section 190 of the Motor Vehicles Act, as substituted by Section 72 of the Motor Vehicles (Amendment) Act, 2019, any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in AIS-008 in relation to road safety, is liable to be punished for the first offence with imprisonment for a term which may extend to three months, or with a 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 he shall be punished with imprisonment for a term which may extend to six

months, or with fine which may extend to ten thousand rupees, or with both. In view of the provisions under sub-section (4) of Section 182A, substituted by Section 65 of the Motor Vehicles (Amendment) Act, 2019, whoever, being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the Rules and Regulations made thereunder is liable to be punished with imprisonment for a term which may extend to six months, or with fine of five thousand rupees per such alteration or with both.

Para.122 of the said judgment reads thus;

"122. In view of the provisions under sub-section (1) of Section 56 of the Motor Vehicles Act, a transport vehicle shall not be deemed to be validly registered for the purposes of Section 39, unless it carries a certificate of fitness in such form containing such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorised testing station mentioned in sub-section (2) of Section 56, to the effect that the vehicle complies for the time being with all the requirements of the Motor Vehicles Act and the Rules made thereunder. A motor 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, namely, number, position, width, height,

length, geometric visibility, orientation, etc.; or a motor vehicle governed by AIS-008, which is installed with lighting and light-signalling devices or retro-reflectors other than those referred to in Para.6.0, cannot be said to be a motor vehicle that complies with the provisions of the Motor Vehicles Act and the rules made thereunder. Such a vehicle, which is likely to endanger the safety of other road users, shall not be issued with fitness certificate in Form 38, by the inspecting authority or the authorised testing station, certifying that the vehicle complies with the provisions of the Motor Vehicles Act and the Rules made thereunder. The fitness certificate, if any, issued to such a vehicle is liable to be cancelled, as per the procedure contemplated under sub-section (4) of Section 56 of the Motor Vehicles Act, at any time after the issuance of the fitness certificate, if the prescribed authority, for reasons to be recorded in writing, is satisfied that the transport vehicle to which it relates no longer complies with all the requirements of the Motor Vehicles Act and the Rules made thereunder. In addition to that, in view of the provisions under sub-section (2) of Section 190 of the Motor Vehicles Act, as substituted by Section 72 of the Motor Vehicles (Amendment) Act, 2019, any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in AIS-008 in relation to road safety, is liable to be punished for the first offence with imprisonment for a term which may extend to three months, or with a 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 he shall be punished with imprisonment for a term which may

extend to six months, or with fine which may extend to ten thousand rupees, or with both. Section 182A of the Motor Vehicles Act, substituted by Section 65 of the Motor Vehicles (Amendment) Act, 2019 deals with punishment for offences relating to construction, maintenance, sale and alteration of motor vehicles and components. In view of the provisions under sub-section (4) of Section 182A, whoever, being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine of five thousand rupees per such alteration or with both."

10.1. In the judgment dated 28.10.2019 (Para.126) this Court directed the additional 3rd respondent Transport Commissioner to take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle, which are not installed with lighting and light-signalling devices and also retro-reflectors referred to in Para.6.0 of AIS-008, conforming to the individual specifications for such lighting and light-signalling devices and retro-reflectors prescribed in Paras.6.1 to 6.20, namely, number, position, width, height, length, geometric visibility, orientation, etc.; or which are installed with lighting and

light-signalling devices or retro-reflectors other than those referred to in Para.6.0, which are likely to endanger the safety of other road users, are being permitted to be used in any public place. Similarly, no two and three wheelers, its trailer and semi-trailer governed by AIS-009/2001 and no agricultural tractors governed by AIS-030/2001, which are not installed with lighting and light-signalling devices and retro-reflectors referred in the respective standards, conforming to the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc.; or which are installed with lighting and light-signalling devices or retro-reflectors other than those referred to therein, which are likely to endanger the safety of other road users, shall be permitted to be used in any public place. No motor vehicle shall be permitted to be used in any public place after putting any object in front of such lighting, light-signalling devices or reflectors or after 'tinting' such lighting, light-signalling devices (i.e., headlights, tail lights, indicators, etc.) or reflectors by fixing vinyl tint film sticker. No transport vehicle, including an Educational Institution Bus, which does not comply with the provisions of the Motor Vehicles Act and the Rules made thereunder, and also the safety standards referred to above, shall be issued with fitness certificate. The

fitness certificate, if any, issued to any transport vehicle which does not comply with the provisions of the Motor Vehicles Act and the Rules made thereunder, and also the safety standards referred to above shall be cancelled, as per the procedure contemplated under subsection (4) of Section 56 of the Motor Vehicles Act, by the prescribed authority, for reasons to be recorded in writing.

10.2. In the judgment dated 28.10.2019 (Para.127) this Court directed the additional 3rd respondent Transport Commissioner to take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in AIS-008/AIS-009/2001/ AIS-030/2001, etc. in relation to road safety, is proceeded against, in view of the provisions under subsection (2) of Section 190 of the Motor Vehicles Act, as substituted by Section 72 of the Motor Vehicles (Amendment) Act, 2019 and the driver of the vehicle shall be disqualified for holding licence for a period of three months. In view of the provisions under subsection (4) of Section 182A, the owner of the motor vehicle shall also be proceeded against for altering the said vehicle in a manner

not permitted under the Motor Vehicles Act and the Rules and regulations made thereunder.

10.3. Regarding alterations in tipper lorries, a news report with photograph was published in Mathrubhoomi daily dated 05.04.2021 (Kochi Edition), which is extracted hereunder;



As evident from the photograph, the tipper lorries are fitted with unauthorised lights on the roof top of the cabin, on the front bumper, etc., in violation of the safety standards prescribed in AIS-008. In addition to this, the windscreen of the tipper lorries are pasted with stickers (on the top and bottom of the safety glass) and various objects are placed/hanged in front of the windscreen causing obstruction to the clear vision of the driver, in violation of Rule 278 of the Kerala Motor Vehicles Rules, 1989. As per the press report, the owners of the tipper lorries have obtained approval of

the Motor Vehicles Department for the alterations made on their vehicles.

10.4. Large number of motor vehicles, including stage carriages, contract carriages and goods vehicles, which are likely to endanger the safety of other road users, 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 is evident from the photograph in the news report published in Mathrubhoomi daily dated 05.04.2021 (Kochi Edition). 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. 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 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.

10.5. Despite the specific directions contained in the judgment of this Court dated 28.10.2019, the additional 3rd respondent Transport Commissioner, through the concerned officers in the Motor Vehicles Department, has not taken necessary steps to ensure that no motor vehicle which violates the road

safety standards in AIS-008/AIS-009/2001/AIS-030/2001, which is likely to endanger the safety of other road users, is permitted to be used in any public place and that, any person who drives or causes or allows to be driven in any public place such a motor vehicle is proceeded against, under sub-section (2) of Section 190 of the Motor Vehicles Act, as substituted by Section 72 of the Motor Vehicles (Amendment) Act, 2019 and the owner of the motor vehicle is proceeded against under sub-section (4) of Section 182A, for altering the said vehicle in a manner not permitted under the said Act and the Rules and regulations made thereunder.

10.6. The learned Special Government Pleader seeks time to get instructions from the additional 3rd respondent Transport Commissioner and to file action taken report on the above aspects.

11. In the judgment dated 28.10.2019 (Para.128) this Court directed the additional 3rd respondent Transport Commissioner to take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no motor vehicle, including transport vehicle, is permitted to be used in any public place, without displaying the registration mark on a licence plate having the specification prescribed in clause (vi) of sub-rule (1) of Rules 50 and 51 of the Central Motor Vehicles Rules and Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017;

and without 'rear registration plate (mark) illuminating lamp',
illuminating the space accommodating the rear registration plate.

The registration mark on every motor vehicle shall be displayed
clearly and legibly using fonts having 'uniform thickness'. The
display of registration mark using 'fancy fonts' or 'decorative fonts',
shall not be permitted.

11.1. 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 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 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;
- (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)

11.2. 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 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.

11.3. 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;
- 7) Chief Justice of India; Judges of Supreme Court; Chief Justice of High Courts; Judges of High Courts."

(underline supplied)

11.4. In the judgment dated 28.10.2019 (Para.128) 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; and the size of letters and numerals of the registration mark shall be as specified in Rule 51, 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 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. 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.

11.5. The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, has issued Office Memorandum 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;

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)

11.6. In the judgment dated 28.10.2019 (Para.105) 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 of any flag on a motor vehicle, other than a 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 / clauses (1) to (7) of Paragraph 3.44 of the Flag Code of India, 2002. 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' on a motor vehicle. Para.105 of the said judgment reads thus;

"105. Chapter IV of the Motor Vehicles Act deals with registration of motor vehicles. Section 64 of the Act deals with the rule making power of Central Government and Section 65 deals with the rule making power of State Government. 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 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' on a motor vehicle." (underline supplied)

11.7. 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)

11.8. The legality or otherwise of the amendment made to Rule 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)

11.9. Despite the specific directions contained in the judgment of this Court dated 28.10.2019, 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 the Motor Vehicles (Driving) Regulations, 2017.

11.10. 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 is extracted hereunder;

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 അനധികൃതമായി ഉപയോഗിച്ച് വരുന്നത് നിയന്ത്രിക്കുന്നതിന് നടപടി സ്വീകരിക്കേണ്ടതുണ്ടെന്നും ബഹു.കേരള ഹൈക്കോടതി സൂചന (1) പ്രകാരം നിരീക്ഷിച്ച് ഉത്തരവായിട്ടുണ്ട്. ടി സാഹചര്യത്തിൽ സംസ്ഥാനത്തെ സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണ നിയന്ത്രണത്തിലുള്ള എല്ലാ സഹകരണ സ്ഥാപനങ്ങളും അവരുടെ ഉടമസ്ഥതയിലുള്ള വാഹനത്തിന്റെ ലോഗ് ബുക്ക്, ടിപ്പ് ഷീറ്റ് എന്നിവ സൂക്ഷിക്കേണ്ടതുപോലെയുള്ള 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 ആലേഖനം ചെയ്യാൻ പാടില്ലാത്തതുമാണ്. വാഹന ദൃഢപയോഗം ശ്രദ്ധയിൽ പെട്ടാൽ ബന്ധപ്പെട്ട സഹകരണ സ്ഥാപനങ്ങൾക്കെതിരെ കർശന നടപടി സ്വീകരിക്കുന്നതും സ്ഥാപനത്തിനുമായ നഷ്ടം ഉത്തരവാദികളിൽ നിന്നും ഈടാക്കുന്നതിനുള്ള നടപടി സ്വീകരിക്കുന്നതുമാണ്. സഹകരണ വകുപ്പിലെ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർ ടി നിർദ്ദേശങ്ങൾ അവരവരുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സ്ഥാപനങ്ങളുടെ ശ്രദ്ധയിൽ കൊണ്ട് വരേണ്ടതും അവ പാലിക്കപ്പെടുന്നുണ്ടെന്ന് ഉറപ്പ് വരുത്തേണ്ടതുമാണ്.

ഒപ്പ്

എസ്.ഷാനവാസ്.ഐ.എ.എസ്

സഹകരണ സംഘം രജിസ്ട്രാർ

(underline supplied)

11.11. Despite the specific directions contained in the judgment of this Court dated 28.10.2019, the additional 3rd respondent Transport Commissioner, through the concerned officers in the Motor Vehicles Department, has not taken necessary steps to ensure that no motor vehicle, including transport vehicle, is permitted to be used in any public place, without displaying the registration mark clearly and legibly, using fonts having 'uniform thickness', on a licence plate having the specification prescribed in clause (vi) of sub-rule (1) of Rules 50 and 51 of the Central Motor Vehicles Rules and that, no 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 the Motor Vehicles (Driving) Regulations, 2017, and that, no motor vehicle is permitted to be used in any public place without 'the rear registration plate (mark)

illuminating lamp', illuminating the space accommodating the rear registration plate.

11.12. Despite the specific directions contained in the judgment of this Court dated 28.10.2019, 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 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.

11.13. In the judgment dated 28.10.2019 (Paras. 126 to 131), this Court issued various directions to the additional 3rd respondent Transport Commissioner, who was directed to file an action taken report on or before 04.04.2020. On behalf of the additional 3rd respondent, the Joint Transport Commissioner (Enforcement) has filed action taken report on 24.11.2020. As evident from the statement filed by the Joint Transport Commissioner (Enforcement) on 23.03.2021, large number of vehicles were being permitted to be used in public place with cooling films and curtains, in contravention of the directions contained in the judgment of the Apex Court and that of this Court

prohibiting the use of such materials on the windscreen, rear window and side windows of motor vehicles. The State Police Chief has to issue circular dated 14.12.2020, after the action taken report filed by the Joint Transport Commissioner (Enforcement) on 24.11.2020, directing removal of window curtains, bull bars, sun films, etc., from the vehicles of Police Department. The said circular was followed by circular dated 30.12.2020 issued by the 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 materials, which affects the visual light transmission percentage, through the windscreens/windows.

11.14. The fact that 5775 vehicles were booked for using cooling films, curtains, etc., in the special drive 'Operation Screen' conducted for the period from 17.01.2021 to 20.01.2021 would make it explicitly clear that even after the filing of the action taken report on 24.11.2020, large number of vehicles including Government vehicles were being permitted to be used in public place using cooling films, curtains, etc. As noticed hereinbefore, at Paras.10.3 and 10.4, even now, 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. The light emitted from the additional headlamps/lamps/flashing lamps installed on such vehicles is capable of dazzling the drivers of the oncoming vehicles and also the pedestrians. The video contents of the alterations made to the lighting, light signaling devices and reflectors, by replacing the prototype approved parts with after-market LED lights, or by 'tinting' the headlights, tail lights, indicators, day time running light, etc., by fixing vinyl tint film sticker are being uploaded on online video platforms like 'YouTube' by the registered owners of such vehicles or by vloggers. In addition to this, large number of motor vehicles are being permitted to be used in public place without displaying the registration mark, clearly and legibly, using fonts having 'uniform thickness', on a licence plate having the prescribed specification. 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 (which is extracted hereinbefore at Para.11.1) / dignitaries specified in clauses (1) to (7) of Paragraph 3.44 of the Flag Code of India, 2002 (which is extracted hereinbefore in Para.11.3) are being permitted to be used in public place

displaying emblems and flags. In most of such vehicles, letters, words and symbols other than the registration mark are inscribed or written on the registration plate, in violation of the provisions under sub-rule (3) of Rule 36 of the Motor Vehicles (Driving) Regulations, 2017. Such name boards are being permitted on motor vehicles owned by co-operative societies, societies, Non-Governmental Organisations, Public Private Partnerships, etc., as noticed hereinbefore in Para.11.12. The name of the State Government and also the name of this Court is permitted to be exhibited on vehicles, in violation of Section 3 of the Emblems and Names (Prevention of Improper Use) Act, 1950. The designation of the Law Officers and Central Government Counsel of this Court is being permitted to be written on the registration plate of their motor vehicles.

11.14. The additional 3rd respondent Transport Commissioner shall file an action taken report in terms of the directions contained in Paras.126 to 131 of the judgment of this Court dated 28.10.2019, taking note of the above aspects.

11.15. List on 07.07.2021 at 1.45 p.m. for the action taken report of the additional 3rd respondent Transport Commissioner.

Registry to incorporate a copy of the press report published in Mathrubhumi daily dated 05.04.2021 (Kochi Edition), in the Judge's papers of this writ petition.

Sd/-
ANIL K. NARENDRA
JUDGE

bkn/yd

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	A TRUE COPY OF THE CLEARANCE CERTIFICATE DATED 05.02.2018
EXHIBIT P2	A TRUE COPY OF THE APPLICATION FOR TRANSFER OF DATED 28.03.2018
EXHIBIT P3	A TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT DATED 18.03.2018 ACCORDING SANCTION FOR ALTERATION.
EXHIBIT P4	A TRUE COPY OF THE FEE RECEIPT DATED 10.05.2018
EXHIBIT P5	A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF KL-09/L 8719.
EXHIBIT P6	A TRUE COPY OF THE JUDGMENT IN WPC.NO.1015 OF 2018 AND CONNECTED CASES.

2ND RESPONDENT'S ANNEXURES:

ANNEXURE R2 (A)	A TRUE COPY OF THE CHECK LIST.
ANNEXURE R2 (B) SERIES	A TRUE COPY OF THE PHOTOGRAPHS SHOWING THE PRESENT CONDITION OF VEHICLE AFTER CURING THE DEFECTS.
ANNEXURE R2 (C)	A TRUE COPY OF THE INSPECTION REPORT.

3RD RESPONDENT'S ANNEXURE:

ANNEXURE R3 (A)	TRUE COPY OF THE DETAILED INSPECTION REPORTS.
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