

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

MONDAY, THE 28TH DAY OF OCTOBER 2019 / 6TH KARTHIKA, 1941

W.P.(C)No.23021 OF 2018(C)

PETITIONER:

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

BY ADV. SRI.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 IS SUO MOTU IMPLEADED
AS PER ORDER DATED 05/09/2019 IN W.P.(C).**

***3 ADDL.R3
THE TRANSPORT COMMISSIONER, KERALA,
TRANSPORT COMMISSIONERATE, 2ND FLOOR,
TRANS TOWERS, VAZHUTHACAUD,
THYCAUD P.O., THIRUVANANTHAPURAM-695 014.**

***ADDITIONAL 3RD RESPONDENT IS SUO MOTU IMPLEADED
AS PER ORDER DATED 28/10/2019 IN W.P.(C).**

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

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28.10.2019,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

"CR"**JUDGMENT**

The petitioner, who is the Principal of Sabari PTB Smaraka Higher Secondary School, Adakkaputhur, Ottappalam, has filed this writ petition under Article 226 of the Constitution of India, 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, in the light of Ext.P6 judgment of this Court dated 24.05.2018 in W.P.(C)No.1015 of 2018 and connected cases.

2. Going by the averments in the writ petition, for the conveyance of students, the petitioner purchased a Heavy Passenger Motor Vehicle covered by Ext.P5 certificate of registration on 01.02.2018 from its previous owner. The said vehicle which was originally registered as a stage carriage, on 02.04.2003, and operated as such till 31.01.2018, on the strength of stage carriage permit issued by the Regional Transport Authority, Palakkad. After purchase, the petitioner

obtained Ext.P1 clearance certificate dated 05.02.2018 for facilitating transfer of ownership. The petitioner applied for endorsing the transfer of ownership and permission for alteration of the vehicle as Educational Institution Bus (Contract Carriage), by submitting Ext.P2 application dated 28.03.2018. On 18.03.2018, the 1st respondent accorded sanction, vide Ext.P3 proceedings, for alteration of the vehicle as Educational Institution Bus, subject to the remittance of Rs.5,000/-. On 10.05.2018, the petitioner remitted the requisite fee of Rs.5,000/-, vide Ext.P4 receipt. The petitioner produced the vehicle for inspection before the 1st respondent, after making necessary alterations. Thereafter, the petitioner was issued with Ext.P5 certificate of registration, in which the class of the vehicle is shown as Heavy Passenger Motor Vehicle – Stage Carriage, instead of Educational Institution Bus. According to the petitioner, after the issuance of Ext.P5, the 1st respondent took a stand that, endorsement as to change of the class of vehicle as Educational Institution Bus can be made only if alteration is effected in accordance with Rule 125C of the Central Motor Vehicles Rules, on a mistaken impression that the vehicle in question falls within

the category to which the Code of Practice for Bus Body Design and Approval AIS-052(Rev.1)-2008 applies. Relying on Ext.P6 judgment in W.P.(C)No.1015 of 2018 and connected cases, the petitioner would contend that the provisions under Rule 125C of the Central Motor Vehicles Rules apply only to models of vehicles approved after 01.10.2014.

2.1. On 02.08.2019, when this writ petition came up for consideration, it was submitted by the learned counsel for the petitioner that the petitioner shall produce the vehicle in question before the 1st respondent for inspection, on 05.08.2019 at 11.00 am. The learned Government Pleader submitted that on such production, the 1st respondent Additional Registering Authority shall conduct inspection of the vehicle and submit a report before this Court. By the order dated 02.08.2019, this Court directed the 1st respondent to inspect the vehicle in question with specific reference to the provisions under the Central Motor Vehicles Rules, especially Rule 62, taking note of the law laid down by this Court in **Saji v. Deputy Transport Commissioner [2019 (3) KHC 836]** (Paras 62 and 63) and submit a report before this Court within ten days, stating the alterations made for change of

the class of vehicle from Stage Carriage to Educational Institution Bus (Contract Carriage).

2.2. Along with a memo filed by the learned Government Pleader dated 14.08.2019, a statement dated nil of the 1st respondent; the inspection report of the Motor Vehicle Inspector in the Sub Regional Transport Office, Ottappalam dated 08.08.2019; and a few photographs of the vehicle in question are placed on record. As per the statement of the 1st respondent, stage carriage bearing registration No.KL-09/L-8719 is a 2003 model vehicle, which was discarded from stage carriage operation after expiry of the lifespan of 15 years. The vehicle was kept idle since 14.03.2018 since its certificate of fitness expired on 13.03.2018. In the inspection report of the Motor Vehicle Inspector, it is stated that the vehicle was inspected on 08.08.2019 and on inspection it was found that the vehicle complies with the provisions of Chapter VII of the Motor Vehicles Act, 1988 and the Kerala Motor Vehicles Rules, 1989 except fitment of GPS [sic: Vehicle Location Tracking Device and Panic Buttons as per Rule 125H of the Central Motor Vehicles Rules, 1989].

2.3. On 05.09.2019, when this writ petition came up for consideration, this Court noticed that the inspection report dated 08.08.2019 of the Motor Vehicle Inspector is silent on the alterations carried out in the vehicle for change of class from Stage Carriage to Educational Institution Bus (Contract Carriage). In the inspection report, the Motor Vehicle Inspector found that the vehicle complies with the provisions of Chapter VII of the Motor Vehicles Act, 1989 and the Kerala Motor Vehicles Rules, 1989 except the fitment of GPS. It was not discernible from the inspection report as to whether the Motor Vehicle Inspector has carried the tests specified in the Table given in Rule 62 of the Central Motor Vehicles Rules, as per the method of checking the condition/functioning of each item prescribed in the remarks column of the Table. In **Saji's case [2019 (3) KHC 836]** this Court held that, as per the mandate of Rule 124 of the Central Motor Vehicles Rules, every manufacturer shall get the prototype of the part, component or sub-assembly used in the manufacture of a vehicle, for which standards have been notified, approved from any agency referred to in Rule 126. Therefore, the signalling devices, direction indicators, reflectors, lamps, parking lights,

etc. fitted on a motor vehicle by the manufacturer, after obtaining prototype approval for those parts under Rule 124 of the Central Motor Vehicles Rules, have to be maintained as such. As evident from the photographs placed on record along with the inspection report, the petitioner's vehicle is not having light to illuminate the registration mark, as per the mandate of sub-rule (5) of Rule 105 of the Central Motor Vehicles Rules, and the vehicle is fitted with unauthorised lights. The registration mark of the vehicle is not displayed as per Rules 50 and 51 of the Central Motor Vehicles Rules, read with sub-regulation (2) of Regulation 36 the Motor Vehicles (Driving) Regulations, 2017. Therefore, by the order 05.09.2019, Sri P.M. Shaji, Motor Vehicles Inspector, Sub-Regional Transport Office, Ottapalam, who has submitted the inspection report dated 08.08.2019, was *suo motu* implead as additional 2nd respondent, who was directed to file an affidavit explaining the facts and circumstances, taking note of the observations contained in that order.

2.4. Pursuant to the order 05.09.2019, an affidavit of the additional 2nd respondent dated 26.10.2019 is placed on record, along with Annexure R2(a) checklist; Annexure R2(b) series of

photographs of the vehicle showing its present condition after curing the defects; and Annexure R2(c) inspection report dated 21.10.2019. In paragraph 7 of the said affidavit it is stated that, while conducting inspection on 08.08.2019, the said respondent had carried out the tests specified in the Table to Rule 62 of the Central Motor Vehicles Rules. But due to an oversight non-compliance of certain provisions were not noticed and reported, which was not willful. In view of the observations made by this Court in the order dated 05.09.2019, the petitioner was directed to cure the defects. After curing the defects, the petitioner produced the vehicle on 21.10.2019. The additional 2nd respondent carried the tests as specified in the Table to Rule 62, as per the method of checking the condition/functioning of each item prescribed in the remarks column of the Table. In the inspection report, the additional 2nd respondent states, among other things, that the vehicle complies with the provisions of sub-rule (5) of Rule 105 regarding illumination of registration mark; the registration marks are properly exhibited as per sub-regulation (2) of Regulation 36 the Motor Vehicles (Driving) Regulations, 2017; there is no tampering of percentage of visual

transmission of light of the safety glass; etc. The alterations made on the vehicle for change of class from Stage Carriage to Educational Institution Bus (Contract Carriage) are mentioned in paragraph 7 of the inspection report. Paragraphs 9 and 10 of the affidavit of the additional 2nd respondent dated 26.10.2019 reads thus;

"9. It is submitted that according to the wheelbase, the maximum seating capacity of the vehicle in question is 49+1, but on inspection, it is found that the petitioner has provided only 38 seats. It is also found in the inspection that the petitioner has fitted the registration plates on the front and at the rear of the vehicle which are visible and legible. It is also submitted that in the inspection conducted, the following alterations were found:

- a) The colour of the vehicle has been painted in golden yellow colour and for school identification, a band of 150mm wide of golden brown colour has also been provided on sides of the bus below window level.
- b) The maximum speed limit has been pre-set as 50km in the speed governor.
- c) The seating position for school children is in accordance with sub-clause (d) of Rule 267 of the Kerala Motor Vehicle Rules.
- d) The name of the institution has been exhibited on sides.
- e) The emergency exit has been fitted at the rear

windscreen and the words emergency exit has been prominently inscribed in red colour on a white background both inside and outside of the emergency exit.

- f) It is also found that no unauthorised lights are fitted in the vehicle.
- g) The registration mark of the vehicle has been displayed in tune with sub-regulation (2) of Regulation 36 of the Motor Vehicle (Driving) Regulation, 2017.

10. It is respectfully submitted that now the vehicle has been thoroughly checked and found that the vehicle in question complies with the provisions under the Central Motor Vehicle Rules and the Kerala Motor Vehicle Rules. It is submitted that though major aspects were noticed at the time of first inspection, this could not be brought to the notice of this Honourable Court in the inspection report dated 08.08.2019, which was only an omission and not willful.” (underline supplied)

3. Heard the learned counsel for the petitioner and also the learned Special Government Pleader appearing for the respondents.

4. **The Motor Vehicles Act, 1988** was enacted by the Parliament to consolidate and amend the law relating to motor vehicles, namely, the Motor Vehicles Act, 1939 to take into account, inter alia, the need for encouraging adoption of higher

technology in automotive sector; laying down standards for the components and parts of motor vehicles; concern for road safety standards and pollution control measures, standards for transportation of hazardous and explosive materials; etc.

4.1. Section 56 of the Motor Vehicles Act deals with certification of fitness of transport vehicles. As per sub-section (1) of Section 56, subject to the provisions of Section 59 and Section 60, 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), to the effect that the vehicle complies for the time being with all the requirements of the Act and the Rules made thereunder. As per sub-section (4) of Section 56, the prescribed authority may, for reasons to be recorded in writing, cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of the Act and the Rules made thereunder; and on such cancellation the certificate of

registration of the vehicle and any permit granted in respect of the vehicle under Chapter V shall be deemed to be suspended until a new certificate of fitness has been obtained. As per the first proviso to sub-section (4) of Section 56, substituted by the Motor Vehicles (Amendment) Act, 2019, no such cancellation shall be made by the prescribed authority unless, such prescribed authority holds such technical qualification as may be prescribed by the Central Government and where the prescribed authority does not hold the technical qualification, such cancellation is made on the basis of the report of an officer having such qualification; and the reasons recorded in writing cancelling a certificate of fitness are confirmed by an authorised testing station chosen by the owner of the vehicle whose certificate of fitness is sought to be cancelled. As per sub-section (6) of Section 56, inserted by the Motor Vehicles (Amendment) Act, 2019, all transport vehicles with a valid certificate of fitness issued under this Section shall carry, on their bodies, in a clear and visible manner such distinguishing mark as may be prescribed by the Central Government.

4.2. In **Usha Nanthini M. v. Secretary, Regional**

Transport Authority [2018 (2) KHC 89] this Court held that a transport vehicle which is registered under Section 39 of the Motor Vehicles Act can be driven or plied on the road only if it possesses a valid fitness certificate. If it is not having a valid fitness certificate, it shall be deemed to be an unregistered motor vehicle. Further, the certificate of fitness issued under Section 56 of the Act in respect of a transport vehicle is liable to be cancelled at any time, for reasons to be recorded in writing, if the prescribed authority is satisfied that the vehicle to which it relates no longer complies with all the requirements of the Act and the Rules made thereunder.

4.3. Chapter VII of the Motor Vehicle Act deals with construction, equipment and maintenance of motor vehicles. Section 109 of the Act deals with general provision regarding construction and maintenance of vehicles and Section 110 deals with power of Central Government to make rules. As per sub-section (1) of Section 110, the Central Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all or any of the matters enumerated in clauses (a) to (p) of sub-section (1). As

per clause (e) of sub-section (1), the Central Government may make rules with respect to signalling appliances, lamps and reflectors. Section 111 deals with power of State Government to make rules. As per sub-section (1) of Section 111, a State Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all matters other than the matters specified in subsection (1) of Section 110.

4.4. Section 182A of the Motor Vehicles Act, inserted by the Motor Vehicles (Amendment) Act, 2019 deals with punishment for offences relating to construction, maintenance, sale and alteration of motor vehicles and components. As per 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.

4.5. Section 190 of the Motor Vehicles Act, as substituted by

Section 72 of the Motor Vehicles (Amendment) Act, 2019, deals with using vehicle in unsafe condition. As per sub-section (1) of Section 190, any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine of one thousand five hundred rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with imprisonment for a term which may extend to three months, or with fine of five thousand rupees, or with both and for a subsequent offence shall be punishable with imprisonment for a term which may extend to six months, or with a fine of ten thousand rupees for bodily injury or damage to property. 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 terms

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 with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both. Sub-section (3) of Section 190 deals with carriage of goods which are dangerous or hazardous in nature to human life.

4.6. Section 194F of the Motor Vehicles Act, inserted by the Motor Vehicles (Amendment) Act, 2019 deals with use of horns and silence zones. As per Section 194F, whoever, while driving a motor vehicle, sounds the horn needlessly or continuously or more than necessary to ensure safety; or sounds the horn in an area with a traffic sign prohibiting the use of horn; or drives a motor vehicle which makes use of a cut out by which exhaust gases are released other than through silencer, shall be punishable with a fine of one thousand rupees and for a second or subsequent offence with a fine of two thousand rupees.

4.7. Section 200 of the Motor Vehicles Act deals with composition of certain offences. As per sub-section (1) of Section

200, any offence whether committed before or after the commencement of this Act punishable under Section 177, Section 178, Section 179, Section 180, Section 181, Section 182, sub-section (1) or sub-section (2) of Section 183, Section 184, Section 186, Section 189, sub-section (2) of Section 190, Section 191, Section 192, Section 194, Section 196 or Section 198 may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf. As per sub-section (2) of Section 200, where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

4.8. Section 200 of the Motor Vehicles Act, as substituted by Section 86 of the Motor Vehicles (Amendment) Act, 2019 (with effect from 01.09.2019) reads thus;

"200. Composition of certain offences.-- (1) Any offence whether committed before or after the commencement of this Act punishable under Section 177, Section 178, Section 179, Section 180, Section 181, Section 182, sub-section (1) or sub-section (3) or sub-section (4) of Section 182A, Section 182B, sub-section (1)

or sub-section (2) of Section 183, Section 184 only to the extent of use of handheld communication devices, Section 186, Section 189, sub-section (2) of Section 190, Section 192, Section 192A, Section 194, Section 194A, Section 194B, Section 194C, Section 194D, Section 194E, Section 194F, Section 196, Section 198, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf.

Provided that the State Government may, in addition to such amount, require the offender to undertake a period of community service.

(2) Where an offence has been compounded under sub-section (1) the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

Provided that notwithstanding compounding under this section, such offence shall be deemed to be a previous commission of the same offence for the purpose of determining whether a subsequent offence has been committed:

Provided further that 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.

4.9. Section 206 of the Motor Vehicles Act deals with power of police officer to impound document. As per sub-section (1) of

Section 206, any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence, permit, certificate of registration, certificate of insurance or other document produced to him by the driver or person in charge of a motor vehicle is a false document within the meaning of Section 464 of the Indian Penal Code, 1860 seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document. As per sub-section (2) of Section 206, any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence and the said Court shall on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgment given under sub-section (3). As per sub-section (3) of Section 206, a police officer or other person seizing a licence under sub-section (2) shall give

to the person surrendering the licence a temporary acknowledgment therefor and such acknowledgement shall authorise the holder to drive until the licence has been returned to him or until such date as may be specified by the police officer or other person in the acknowledgement, whichever is earlier. As per the proviso to sub-section (3), if any Magistrate, police officer or other person authorised by the State Government in this behalf is, on an application made to him, satisfied that the licence cannot be, or has not been returned to the holder thereof before the date specified in the acknowledgment for any reason for which the holder is not responsible, the Magistrate, police officer or other person, as the case may be, may extend the period of authorisation to drive to such date as may be specified in the acknowledgment.

4.10. As per sub-section (4) of Section 206 of the Motor Vehicles Act, inserted by Section 88 of the Motor Vehicles (Amendment) Act, 2019, 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 Section 183, Section 184,

Section 185, Section 189, **Section 190**, Section 194C, Section 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**. As per the proviso to sub-section (4), the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgment therefor, but such acknowledgment shall not authorise the holder to drive until the licence has been returned to him.

5. **The Central Motor Vehicles Rules, 1989** made by the Central Government, in exercise of its rule making power under the relevant provisions of the Motor Vehicles Act was published, vide notification dated 02.06.1989. Rule 62 of the Central Motor Vehicles Rules deals with validity of certificate of fitness. As per sub-rule (1) of Rule 62, a certificate of fitness in respect of a transport vehicle granted under Section 56 shall be in Form No.38 and such certificate when granted for a new vehicle shall be valid for two years. As substituted by GSR 1081(E) dated 02.11.2018, the renewal of such certificate shall be valid for a period of two years for vehicles up to eight years old and one year for vehicles older than eight years. The proviso

to sub-rule (1) of Rule 62 mandates that the renewal of a fitness certificate shall be made only after the inspecting authority or authorised testing station as referred to in sub-section (1) of Section 56 of the Act has carried the tests specified in the Table given in Rule 62. The method of checking the condition/functioning of each item has been prescribed in the remarks column of the Table.

5.1. Rule 62 of the Central Motor Vehicles Rules contemplates checking the condition of spark plug/suppressor cap/high tension cable, head lamp beams, other lights, reflectors, bulbs, rear view mirror, safety glass, horn, silencer, dash board equipment, windshield wiper, exhaust emission, braking system, speedometer and steering gear. Rule 62 provides for checking the functioning of all the aforesaid items except the reflectors, bulbs, rear view mirror, safety glasses and exhaust emission. It also provides for checking the make/rating, etc. of spark plug/suppressor cap/high tension cable, bulbs and safety glass as per original equipment recommendations. As per the remarks column of the Table, beam focus of head lamp beams has to be checked as per Annexure VII. While checking other lights it has to be

ensured that unauthorised lights are not fitted; while checking reflectors it has to be ensured that the colour of reflectors and reflective tapes are as per Rule 104; while checking bulbs it has to be ensured that head light bulbs wattage, especially halogen, is not higher than those indicated in IS 1606-1993 and also that halogen bulbs with P45t caps are not used in all vehicles; while checking safety glasses it has to be ensured that laminated windscreen glass is used for vehicles manufactured from April, 1996 onwards; etc. The certificate of fitness of a transport vehicle issued in Form No.38 contains a certification by the inspecting authority or the authorised testing station that the vehicle complies with the provisions of the Motor Vehicles Act and the Rules made thereunder.

5.2. Chapter V of the Central Motor Vehicles Rules deals with construction, equipment and maintenance of motor vehicles. As per sub-rule (1) of Rule 92, no person shall use or cause or allow to be used in any public place any motor vehicle which does not comply with the provisions of Chapter V. As per the proviso to sub-rule (1), nothing contained in Rule 92 shall apply to vehicles manufactured prior to the coming into force of the Central Motor

Vehicles (Amendment) Rules, 1993. As per sub-rule (2), nothing in Rule 92 shall apply to a motor vehicle enumerated in clauses (a) to (c).

5.3. Rule 102 of the Central Motor Vehicles Rules deals with signalling devices, direction indicator and stop lights. As per sub-rule (1) of Rule 102, the signal to turn to the right or to the left shall be given by electrically operated direction indicator lamps on all motor vehicles including construction equipment vehicles and combined harvester, and such construction equipment vehicles and combined harvester be fitted and maintained so that conditions enumerated in clauses (i) to (iii) of sub-rule (1) are met, i.e., (i) the direction indicator lamps shall be of amber colour which is illuminated to indicate the intention to turn, by a light flashing at the rate of not less than 60 and not more than 120 flashes per minute; (ii) the light emitted by the lamp when in operation shall be clearly visible from both front and rear of the vehicle; and (iii) the minimum illuminated area of each direction indicator shall be 60 square centimeters. As per the proviso to sub-rule (1) of Rule 102, nothing contained in this sub-rule shall apply to L1 category of motor cycles. As per sub-

rule (2) of Rule 102, on all vehicles other than motor cycles, the intention to stop the vehicle (other than construction equipment vehicle having hydrostatic brakes) shall be indicated by two electrical stop lamps which shall be red in colour and shall be fitted one on each left and right-hand sides at the rear of the vehicle. The stop lamps shall light up on the actuation of the service brake control. In the case of motor cycle, the intention to stop the vehicle shall be indicated by one stop lamp at the rear which shall light up on the actuation of the control operating the brakes on the rear wheels.

5.4. Rule 103 of the Central Motor Vehicles Rules deals with position of the indicator. As per sub-rule (1) of Rule 103, a direction indicator shall be fitted and every direction indicator shall be so designed and fitted that the driver of the vehicle including a construction equipment vehicle and combine harvester when in his driving seat is aware that it is operating correctly. As per sub-section (2), one year from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1993, every motor vehicle including a construction equipment vehicle and combine harvester other than motor

cycles shall be equipped with such a device that when the vehicle is in an immobilized condition all the direction indicators flash together giving hazard warning to other road users.

5.5. Rule 104 of the Central Motor Vehicles Rules deals with fitment of reflectors. As per sub-rule (1) of Rule 104, every motor vehicle manufactured on and after the 1st day of April, 2016, including trailers and semi-trailers, other than three wheelers and motorcycles shall be fitted with two red reflectors, one each on both sides at their rear. Every motor cycle shall be fitted with at least one red reflector at the rear. Clauses (i) to (iv) of the proviso to sub-rule (1) deal with fitment of reflectors in respect of vehicle of Categories N-1, N-2, N-3, M-2, and M-3. As per sub-rule (4) of Rule 104, As per sub-rule (4) of Rule 104, on and after expiry of one year from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1999, the reflectors referred to in this rule and in Rule 110 shall be of reflex type conforming to AIS-057:2005 till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986. As per sub-rule (5) of Rule 104, on and from the date of commencement of the Central Motor Vehicles (Amendment)

Rules, 1993, every motor vehicle and trailer of length exceeding 6 metres shall be fitted with two amber coloured reflex reflectors on each left hand and right hand of the vehicle, one set as close to the front end as possible and the other set as close to the rear end as possible. The height of the side reflectors above the ground shall not be more than 1500 mm. The area of each reflector shall not be less than 28.5 sq.cm. As per the proviso to sub-rule (5), in case the distance between the two side reflectors is more than 3 metres, additional intermediate side reflectors shall be fitted so that the distance between any adjacent side reflector is not more than 3 metres. As per sub-rule (4) of Rule 104, substituted vide GSR 1192(E) dated 10.12.2018, with effect from 11.12.2018, after omitting sub-rules (2) and (5) of Rule 104, the reflectors referred to in Rule 104 and in Rule 110 fitted with motor vehicles manufactured on or after the 1st day of October, 2019 shall be of reflex type conforming to AIS-057 (Rev. 1) : 2010 standard as amended from time to time, till such time the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 2016.

5.6. Rule 105 of the Central Motor Vehicles Rules deals with

lamps. As per sub-rule (1) of Rule 105, save as provided in the said rule, every motor vehicle, while being driven in public place during the period half an hour after sunset and at any time when there is no sufficient light, shall be lit with the lamps enumerated in clauses (a) to (d) of sub-rule (1), which shall render clearly discernible persons and vehicles on the road at a distance of one hundred and fifty-five metres ahead. As per clause (a) of sub-rule (1) of Rule 105, a motor vehicle other than three-wheelers, three-wheeled invalid carriages and motorcycles shall have two or four head lamps. As per clause (i) of sub-rule (2), every motor vehicle other than a three-wheeler shall carry two rear lamps showing to the rear a red light visible in the rear from a distance of one hundred and fifty-five metres; and as per clause (ii) lamp, which may be the rear lamp or some other device, illuminating with a white light the whole of the registration mark exhibited on the rear of the vehicle, so as to render it legible from a distance of fifteen metres to the rear. Sub-rule (3) of Rule 105 specifies the power and height of front head lamps of a motor vehicle. As per sub-rule (3) of Rule 105, on and from the commencement of the Central Motor Vehicles (Amendment) Rules, 1993, all the obligatory front head lamps of a motor vehicle other than

motor cycles shall be as nearly as possible of the same power and fixed at a height as specified in Indian Standards IS: 8415—1977 (clause 4.1). As per the first proviso to sub-rule (3), in the case of four-wheel drive cross country vehicles, the maximum height of the said front head lamps may be as per limits specified in Indian Standards IS: 8415—1977 (clause 4.1.1). As per sub-rule (4), the rear lamp shall be fixed either on the centre line of the vehicle or to the right hand side, and save in the case of transport vehicle, at a height of not exceeding one metre above the ground. As per sub-rule (5), in the case of a transport vehicle, the rear light may be fixed at such level as may be necessary to illuminate the registration mark. Rules 105 of the Central Motor Vehicles Rules reads thus;

“105. Lamps.- (1) Save as hereinafter provided, every motor vehicle, while being driven in a public place, during the period half an hour after sunset and at any time when there is no sufficient light, shall be lit with the following lamps which shall render clearly discernible persons and vehicles on the road at a distance of one hundred and fifty-five metres ahead:—

- (a) in the case of motor vehicle other than three-wheelers, three-wheeled invalid carriages and motorcycles, two or four head lamps;

- (b) in the case of three-wheelers and three-wheeled invalid carriages one or two head lamps;
- (bb) every two wheeler manufactured on and after 1st April, 2017 shall have one or two head lamps, conforming to the applicable standards in force for performance and installation requirements as notified by the Central Government from time to time vide according to sub-rule (1) of Rule 124 which shall automatically switch on when the engine is running;

Provided that, the above condition of the head lamp being lit when the engine is running is deemed to be satisfied if daytime running lamp is provided, conforming to the applicable standards in force for performance and installation requirements as notified by the Central Government from time to time, which shall be automatically lit if the engine is running:

Provided further that the daytime running lamp shall be lit off automatically if the engine is running and the head lamp is switched on;

- (c) in the case of a side car attached to a motor cycle one lamp showing a white light to the front;
- (d) in the case of construction equipment vehicle, two or four lamps showing to the front white light visible from a distance of one hundred and fifty-five metres ahead.

(2) Every such motor vehicle other than a three-wheeler shall also carry—

- (i) two lamps (hereinafter referred to as the rear lamp) showing to the rear a red light visible in the rear from a distance of one hundred and fifty-five metres; and in the case of a motor cycle one lamp showing a red light to the rear visible from a distance of seventy-five metres; and
- (ii) lamp, which may be the rear lamp or some other device, illuminating with a white light the whole of the registration mark exhibited on the rear of the vehicle including construction equipment vehicle, and on the side in the case of construction equipment vehicle and combine harvester so as to render it legible from a distance of fifteen metres to the rear:

Provided that when a motor vehicle is drawing another vehicle or vehicles and the distance between such vehicles does not exceed 1.5 metres, it shall be sufficient if the last drawn vehicle carries a rear lamp or a lamp illuminating the rear registration mark:

Provided further that every construction equipment vehicle shall also carry two lamps showing to the rear red lights visible in the rear from a distance of one hundred and fifty-five metres.

(3) On and from the commencement of the Central Motor Vehicles (Amendment) Rules, 1993, all the obligatory front head lamps of a motor vehicle other than motor cycles shall be as nearly as possible of the same power and fixed

at a height as specified in Indian Standards IS: 8415—1977 (clause 4.1):

Provided that in the case of four-wheel drive cross country vehicles, the maximum height of the said front head lamps may be as per limits specified in Indian Standards IS: 8415—1977 (clause 4.1.1):

Provided further that on and from the commencement of the Central Motor Vehicles (Amendment) Rules, 1993, all vehicles other than three-wheelers of engine capacity less than 500 CC, motor cycles and three-wheeled invalid carriages manufactured shall be fitted with two rear lamps showing red light to the rear.

(3A) On and from the commencement of the Central Motor Vehicles (Sixth Amendment) Rules, 2000, all the obligatory front head lamps of a construction equipment vehicle shall be as nearly as possible of the same power and fixed at a height so that front visibility is maintained and farthest point of equipment/attachment is clearly seen by oncoming traffic.

(3B) All the obligatory front head lamps of a combine harvester shall be as nearly as possible of the same power and fixed at a height so that the front visibility is maintained and farthest point of equipment or attachment is clearly seen by oncoming traffic.

(4) The rear lamp shall be fixed either on the centre line of the vehicle or to the right hand side, and save in the case of a transport vehicle, at a height of not exceeding one metre above the ground:

(5) In the case of a transport vehicle, the rear light may be fixed at such level as may be necessary to illuminate the registration mark.

(6) Every heavy goods carriage including trailers shall be fitted with a red indicator lamp of size of thirty centimetres by ten centimetres on the extreme rear most body cross beam and in the case of a vehicle not constructed with body in the rear, the indicator lamp shall be fitted near the right rear light above the rear number plate:

Provided that every construction equipment vehicle of an unconventional or extraordinary type in travel mode shall be fitted or installed with a red indicator lamp of size of not less than 100 square centimetres on the extreme rearmost point of the body.

(7) On and from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1999, every motor vehicle manufactured shall be fitted with at least one lamp which shall automatically be operated, throwing a white light to the rear, when the vehicle is being driven in the reverse gear.

(8) In the case of vehicles, other than three-wheelers of engine capacity not exceeding 500 CC, which are attached with trailers, all the lamps required to be fitted on the rear of the vehicle shall be fitted at the rear of the trailer.

(8A) On the commencement of the Central Motor Vehicles (Sixth Amendment) Rules, 2000, every construction equipment vehicle shall be fitted with two lamps at the rear throwing light to the rear when the vehicle is being driven in the reverse gear and there shall also be an audible

warning system operating when the vehicle is being driven in the reverse gear, the audible warning system and the light being automatically operated when the vehicle is in reverse gear.

(8B) Every combine harvester shall be fitted with two lamps at the rear throwing light to the rear when the vehicle is being driven in the reverse gear and there shall also be an audible warning system operating when the vehicle is being driven in the reverse gear so that the audible warning system and the light are automatically operated when the vehicle is in reverse gear.”

5.7. Rule 106 of the Central Motor Vehicles Rules provides for deflection of lights. Sub-rule (1) of Rule 106, substituted by the Central Motor Vehicles (6th Amendment) Rules, 2014, which came into force with effect from 24.04.2014, provides that no head lamp showing a light to the front shall be used on any motor vehicle including agricultural tractor and construction equipment vehicle and combine harvester (whether fitted with single or dual head lamp) unless such vehicle is so constructed, fitted and maintained that the beam of light emitted therefrom meet the requirements of the respective safety standards notified under Rules 124 and 124A.

5.8. As per sub-rule (1) of Rule 106 of the Central Motor Vehicles Rules, which was in force till its substitution by the

Central Motor Vehicles (6th Amendment) Rules, 2014, no lamp showing a light to the front shall be used on any motor vehicle including construction equipment vehicle (whether fitted with single or dual head lamp) unless such lamp is so constructed, fitted and maintained that the beam of light emitted therefrom (a) is permanently deflected downwards to such an extent that it is not capable of dazzling any person whose eye position is at a distance of 8 metres from the front of lamp; at a distance of 0.5 metre to the right side of the lamps, i.e., fitted at right extreme of the vehicle, from the right edge of the lamp; and at a height of 1.5 metres from the supporting plane of the vehicle; (b) is capable of being deflected downwards by the driver in such manner as to render it incapable of dazzling any such person in the circumstances aforesaid; (c) is capable of being extinguished by the operation of a device which at the same time causes a beam of light to be emitted from the lamp which complies with the provision of clause (a); (d) is capable of being extinguished by the operation of a device which at the same time either deflects the beam of light from another lamp downwards or both downwards and to the left in such manner as to render it

incapable of dazzling any person in the circumstances aforesaid, or brings into or leaves in operation a lamp which complies with the provisions of clause (a).

5.9. By virtue of the amendment, i.e., by the substitution of sub-rule (1) of Rule 106 of the Central Motor Vehicles Rules, by the Central Motor Vehicles (6th Amendment) Rules, 2014, the Central Government, instead of specifying the requirements of 'low beam' and 'high beam' emitted from the head lamp of a motor vehicle in the rule itself, has specified that any motor vehicle including agricultural tractor and construction equipment vehicle and combine harvester shall be so constructed, fitted and maintained that the beam of light emitted from the head lamp meet the requirements of the respective safety standards notified under Rules 124 and 124A.

5.10. Rule 109 of the Central Motor Vehicles Rules deals with parking lights. As per Rule 109, every construction equipment vehicle, combine harvester and every motor vehicle other than motor cycles and three-wheeled invalid carriages shall be provided with one white or amber parking light on each side in the front. In addition to the front lights, two red parking lights

one on each side in the rear shall be provided. The front and rear parking lights shall remain lit even when the vehicle is kept stationary on the road. As per the first proviso to Rule 109, these rear lamps can be the same as the rear lamps referred to in sub-rule (2) of Rule 105. As per the second proviso to Rule 109, construction equipment vehicles and combine harvesters, which are installed with flood light lamps or spot lights at the front, rear or side of the vehicle for their off-highway or construction operations, shall have separate control for such lamps or lights and these lights shall be permanently switched off when the vehicle is traveling on the road.

5.11. Rule 110 of the Central Motor Vehicles Rules deals with lamps on three-wheelers. As per Rule 110, every three-wheeler shall be fitted with one front head lamp and two side white or amber lights or two front lamps on the body. In addition to the front lamp or side lights, it shall be fitted with two rear lamps showing to the rear red light visible from a distance of 75 metres and a white light illuminating the registration mark exhibited on the rear of the vehicle so as to render it legible from a distance of 15 metres; and also two red reflex reflectors each

having a reflecting area of not less than 7 square centimetres. As per the first proviso to Rule 110, in case where these vehicles are attached with trailers, the rear fitments mentioned in this rule and direction indicator system mentioned in Rule 102 shall also be provided at the rear of the trailer. As per the second proviso, fitment of one head lamp shall be applicable only in case of three-wheelers with overall width not exceeding 1400 mm and in such cases the side lights shall be amber in colour. As per the third proviso, the first and second proviso shall not apply to three-wheelers with overall width not exceeding 1400 mm manufactured on or after the 1st day of October, 2019. As per the fifth proviso, on and after the 1st day of October, 2019, the filament lamp (bulb) fitted in head lamp of three-wheelers shall be as per AIS-134:2016, as amended from time to time, till the corresponding Bureau of Indian Standards (BIS) specifications are notified under the Bureau of Indian Standards Act, 2016 (11 of 2016).

5.12. Rule 111 of the CMV Rules, which deals with prohibition of spot lights, etc., provides that no spot light or search light shall be carried on the front of any vehicle except in

exceptional circumstances with the prior approval of the registering authority. Rule 124 of the Central Motor Vehicles Rules deals with safety standards of components. As per sub-rule (1) of Rule 124, the Central Government may, from time to time, specify, by notification in the Official Gazette, the standards or the relevant standards specified by the Bureau of Indian Standards of any part, component or assembly to be used in the manufacture of a vehicle including construction equipment vehicle and the date from which such parts, components or assemblies are to be used in the manufacture of such vehicle and on publication of such notification every manufacturer shall use only such of these parts, components or assemblies in manufacture of the vehicle. As per sub-rule (2) of Rule 124, every manufacturer shall get the prototype of the part, component or sub-assembly for which standards have been notified, approved from any agency as referred to in Rule 126 and in the case of tyre and rubber components from the Indian Rubber Manufacturers Research Association, Thane, or in the case of compliance with notified Indian Standards from laboratory duly authorised by the Bureau of Indian Standards. On the basis

of such approval, every manufacturer shall also certify compliance with the provisions of this rule in Form 22. As per sub-rule (4) of Rule 124, the procedure for type approval and establishing conformity of production for components listed in the Table to sub-rule (4), shall be in accordance with AIS:037-2004 till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986.

5.13. 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 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 the '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.

5.14. In **Saji's case [2019 (3) KHC 836]**, after referring to the law laid down by the Apex Court in **Avishek Goenka's case [(2012) 5 SCC 321]**, this Court held that the provisions under Rules 102 to 111 of the Central Motor Vehicles Rules deal with every minute detail of the signalling devices, direction indicators, reflectors, reflective tapes, lamps, parking lights, etc. to be fitted in a motor vehicle. The said provisions deal with the number, position, colour and other specifications of such lamps, direction indicators, reflectors, etc. As per the mandate of sub-rule (1) of Rule 105, every motor vehicle, while being driven in a public place, during the period half an hour after sunset and at any time when there is no sufficient light, shall be lit with the

lamps enumerated in clauses (a) to (d) of sub-rule (1) of the said Rule, which shall render clearly discernible persons and vehicles on the road at a distance of one hundred and fifty-five meters ahead. As per clause (i) of sub-rule (2), the red light of the rear lamps of a motor vehicle, other than a motorcycle shall be visible in the rear from a distance of one hundred and fifty-five meters and as per clause (ii) of sub-rule (2), the device illuminating the whole of the registration mark exhibited on the rear of a vehicle with a white light shall render the registration mark legible from a distance of fifteen meters to the rear. As per the mandate of sub-rule (3) of Rule 105, all the obligatory front head lamps of a motor vehicle other than a motorcycle shall be as nearly as possible of the same power and fixed at a height as specified in Indian standards I.S: 8415-1977 (clause 4.1.1). Similarly, sub-rule (4) of Rule 105 deals with the position and height of the rear lamp of a motor vehicle other than a transport vehicle; and sub-rule (5) deals with the position of rear light in the case of a transport vehicle, as per which, in the case of a transport vehicle, the rear light may be fixed at such level as may be necessary to illuminate the registration mark. As per the mandate of Rule 109,

which deals with parking lights, the front and rear parking lights shall remain lit even when the vehicle is kept stationary on the road.

5.15. In **Saji's case (supra)** this Court held that, as per the mandate of sub-rule (1) of Rule 249 of the Kerala Motor Vehicles Rules, no person shall use and no person shall cause or allow to be used or to be in any public place any motor vehicle which does not comply with the rules contained in Chapter VII of the said Rules or with any order thereunder made by the competent authority. As per sub-rule (1) of Rule 360 of the Kerala Motor Vehicles Rules, the driver of a motor vehicle shall at all times when the lights of the motor vehicle are in use so manipulate them that danger or undue inconvenience is not caused to any person by dazzling. As per sub-rule (2) of Rule 360, save when left within twenty-three metres of the nearest lighted lamp or the side of a public road having a system of lighting by electric lamps no person shall keep stationary any motor vehicle without exhibiting the parking lights thereon within the hours during which lights are otherwise required under these rules.

5.16. In **Kottamom (Kottiyar Mangalam) Sri Darmasastha Temple Advisory Committee v. State of Kerala and others [2019 (5) KHC SN 27]** this Court held that the directions issued to the Transport Commissioner in paragraphs 62, 63 and also the last paragraph of the judgment of this Court in **Saji's case [2019 (3) KHC 836]** are applicable to every motor vehicle, including a three-wheeler. Therefore, it is for the 8th respondent Joint Regional Transport Officer and all officers in the Motor Vehicles Department to take necessary steps to ensure that respondents 10 to 14 and others, who are plying their autorickshaws on the strength of the contract carriage permits granted by the concerned Regional Transport Authority, are maintaining their vehicles in strict compliance of the aforesaid provisions under the Central Motor Vehicles Rules, especially sub-rule (1) of Rule 92, sub-rules (1) and (2) of Rule 100 and Rule 110, and also the provisions under Regulation 31 of the Motor Vehicles (Driving) Regulations, 2017, failing which appropriate proceedings will have to be initiated against them for plying vehicles, which do not comply with the provisions of Chapter V of the Central Motor Vehicles Rules and also for violation of the

relevant provision under the Motor Vehicles (Driving) Regulations, 2017.

6. **Safety Standards No.15.1:-** The erstwhile Ministry of Surface Transport, vide S.O.No.873(E) dated 15.12.1997 prescribed Safety Standards for Lighting, Signalling and Indicating Systems on all Motor Vehicles, other than Three Wheelers with Engine Capacity less than 500cc and Motor Cycles and Tractors. Safety Standards No.15.1 prescribed vide S.O.No.873(E) dated 15.12.1997 was intended to provide safety requirements of lighting, signalling and indicating systems for the safe operation of motor vehicles. The said standards applied to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (excluding special purpose vehicles like combat vehicles) and to lamps, reflective devices and associated equipment. Paras.4.1 to 4.14 of the Safety Standards define 'lamp', 'light', 'headlight', etc. and Paras.5.1 to 5.13 deal with design requirements, i.e., the number of lights, reflective devices and associated equipment; the position of lights; standards; specifications; etc. Para.6.0 deals with applicable tests to the lighting, signalling and indicating systems.

6.1. Para.7.0 of Safety Standards No.15.1 deals with test requirements of lighting, signalling and indicating systems. Para.7.1 deals with test requirements of head lights; Para.7.2 deals with test requirements of fog light; Para.7.3 deals with test requirements of licence plate light; Para.7.4 deals with test requirements of reversing light; and Para.7.5 deals with test requirements of parking lights, stop lights and direction indicators. Appendix-A of the Safety Standards deals with test procedures; and Appendix-B deals with test requirements.

6.2. Appendix-C of Safety Standards No.15.1 deals with code of practice for installation of stop lights, tail lights and turn signal lights. Para.1.0 of Appendix-C deals with general requirements. As per Para.1.0, the lights shall be so fitted that under normal conditions of use they retain the characteristics laid down in this standard. For all lights including those mounted on the side panels the reference axis of the light when fitted to the vehicle shall be parallel to the bearing plane of the vehicle on the road and in addition, it shall be parallel to the median longitudinal plane of the vehicle. In each direction, a tolerance of $\pm 3^\circ$ shall be allowed. In the absence of specific requirements,

lights constituting a pair shall be fitted on the vehicle symmetrically in relation to the median longitudinal plane. They shall have substantially identical photometric requirements.

7. **Automotive Industry Standards:-** The erstwhile Ministry of Shipping, Road Transport and Highways (Department of Road Transport and Highways), vide S.O.1365(E) dated 13.12.2004, prescribed the standards for installation of lighting and light-signaling devices for motor vehicle having more than three wheels, trailer and semi-trailer, as a safety requirement. Serial No.1(i) of the said notification prescribed the standards for automobile lamps that are to be used as head lamps and states that they shall be of AIS-034/2004 standard. Serial No.20 of the said notification prescribes the fitment requirements of such lamps to be as per AIS-008/2001.

7.1. AIS-034/2004 deals with Automotive Industry Standards (for brevity 'AIS') for automobile lamps, which has been prepared for implementation of the mandatory requirements regarding lamps (bulbs) for use in automobiles for lights and light-signalling devices covered by AIS-008/2001 - Installation Requirements of Lighting and Light-Signalling Devices

for Motor Vehicle having more than Three Wheels, Trailer and Semi-Trailer excluding Agricultural Tractor and Special Purpose Vehicle; AIS-009/2001 - Installation Requirements of Lighting and Light-Signalling Devices for Two and Three Wheeler, its Trailer and Semi-trailer; and AIS-030/2001 - Installation Requirements for Lighting and Light-Signalling Devices for Agricultural Tractor.

7.2. Para.1.0 of AIS-008 deals with its scope. As per Para.1.0, this standard applies to the approval of power-driven vehicles intended for use on the road, with or without bodywork, with not less than four wheels and a maximum design speed exceeding 25 km/h, and of their trailers, with the exception of vehicles, which run on rails, agricultural or forestry tractors and machinery, and public works vehicles. Para.2.0 of AIS-008/2001 deals with definitions. As per Para.2.7.9, 'main-beam headlamp' means the lamp used to illuminate the road over a long distance ahead of the vehicle. As per Para.2.7.10, 'dipped-beam headlamp' means the lamp used to illuminate the road ahead of the vehicle without causing undue dazzle or discomfort to oncoming drivers and other road users. As per Para.2.7.11,

'direction-indicator lamp' means the lamp used to indicate to other road users that the driver intends to change direction to the right or to the left. A direction-indicator lamp or lamps may also be used according to the provisions of AIS-076. As per Para.2.7.12, 'stop lamp' means the lamp used to indicate to other road users to the rear of the vehicle that the longitudinal movement of the vehicle is intentionally retarded. As per Para.2.7.13, 'rear registration plate (mark) illuminating lamp' means the device used to illuminate the space intended to accommodate the rear registration plate. This may consist of different optical components.

7.3. As per Para.2.7.14 of AIS-008, 'front position lamp' means the lamp used to indicate the presence and the width of the vehicle when viewed from the front. As per Para.2.7.15 'rear position lamp' means the lamp used to indicate the presence and the width of the vehicle when viewed from the rear. As per Para.2.7.16, 'retro-reflector' means a device used to indicate the presence of a vehicle by the reflection of light emanating from a light source not connected to the vehicle, the observer being situated near the source. As per Para.2.7.18, 'hazard warning

signal' means the simultaneous operation of all the direction indicator lamps of a vehicle to draw attention to the fact that the vehicle temporarily constitutes a special danger to other road users.

7.4. As per Para.2.7.19 of AIS-008, 'front fog lamp' means the lamp used in case of fog, snowfall, rainstorms or dust clouds to improve the illumination of the road. As per Para.2.7.20, 'rear fog lamp' means the lamp used to make the vehicle more easily visible from the rear in dense fog, snowfall, rainstorms or dust clouds. As per Para.2.7.21, 'reversing lamp' means the lamp used to illuminate the road to the rear of the vehicle and to warn other road users that the vehicle is reversing or about to reverse. As per Para.2.7.22, 'parking lamp' means the lamp used to draw attention to the presence of a stationary vehicle in a built-up area. In such circumstances, it replaces the front and rear position lamps. As per Para.2.7.23, 'end outline marker lamp' means the lamp fixed to the extreme outer edge as close as possible to the top of the vehicle and intended to indicate clearly the overall width of the vehicle. This lamp is intended for certain vehicles and trailers to complement the front and rear position

lamps of the vehicle by drawing particular attention to its bulk. As per Para.2.7.24, 'side-marker lamp' means a lamp used to indicate the presence of the vehicle when viewed from the side. As per Para.2.7.25, 'day time running lamp' means a lamp facing in a forward direction used to make the vehicle more easily visible when driving during daytime. As per Para.2.7.26, 'cornering lamp' means a lamp used to provide supplementary illumination of that part of the road which is located near the forward corner of the vehicle at the side towards which the vehicle is going to turn.

7.5. Para.5.0 of AIS-008 deals with 'general requirements' and Para.6.0 deals with 'individual specifications'. As per Para.5.1, only those lighting and light-signalling devices referred to in Para.6.0 of this standard shall be permitted to be installed on motor vehicles. The lighting and light-signalling devices shall be so fitted that under normal conditions of use as defined in 2.24 and notwithstanding any vibration to which they may be subjected to, they retain the characteristics laid down in this standard and enable the vehicle to comply with the requirements of this standard. In particular, it shall not be possible for the

adjustment of the lamps to be inadvertently disturbed. As per Para.5.2, the illuminating lamps described in paragraphs 2.7.9 [main-beam headlamp], 2.7.10 [dipped-beam headlamp] and 2.7.19 [front fog lamp] shall be so installed that correct adjustment of their orientation can easily be carried out.

7.6. Para.5.3 of AIS-008, for all light-signalling devices, including those mounted on the side panels, the reference axis of the lamp [as defined in Para.2.11] when fitted to the vehicle shall be parallel to the bearing plane of the vehicles on the road. In addition, it shall be perpendicular to the median longitudinal plane of the vehicle in the case of side retro-reflector and side marker lamps and parallel to that plane in the case of all other signalling devices. In each direction, a tolerance of $\pm 3^\circ$ shall be allowed. In addition, any specific instructions as regards fitting laid down by the manufacturer shall be complied with. As per Para.5.4, in the absence of specific requirements, the height and alignment of the lamps shall be checked with the unladen vehicle placed on a flat, horizontal surface under normal conditions of use of a vehicle as defined in 2.24.

7.7. As per Para.5.5 of AIS-008, in the absence of specific

requirements, lamps constituting a pair shall be fitted to the vehicle symmetrically in relation to the median longitudinal plane (based on the exterior geometrical form of the lamp and not on the edge of its illuminating surface referred in Para.2.9) [as per Para.5.5.1]; be symmetrical to one another in relation to the median longitudinal plane. This requirement is not valid with regard to the interior structure of the lamp [as per Para.5.5.2]; satisfy the same colorimetric characteristics (component type approval value) [as per Para.5.5.3]; and have substantially identical photometric characteristics (component type approval value) [as per Para.5.5.4]. As per Para.5.6, on vehicles whose external shape is asymmetrical, the above requirements shall be satisfied as far as possible.

7.8. As per Para.5.8 of AIS-008, the maximum height with respect to the ground shall be measured from the highest point and the minimum height from the lowest point of the apparent surface in the direction of the reference axis. In the case of dipped-beam headlamps, the minimum height shall be measured from the lowest point of the effective outlet of the optical system (eg. reflector, lens, projection lens) independent of its utilisation.

Where the maximum and minimum height clearly meets the requirements of this standard, the exact edges of any surface need not be determined. As per Para.5.8.1, the position, as regards width, shall be determined from the edge of the apparent surface in the direction of reference axis which is the farthest from the median longitudinal plane of the vehicle when referred to the overall width and from the inner edges of the apparent surface in the direction of reference axis when referred to the distance between the lamps. Where the position, as regards width, clearly meets the requirements of this standard the exact edges of any surface need not be determined.

7.9. Para.5.9 of AIS-008, in the absence of specific requirements, no lamps other than direction indicator lamps and the hazard-warning signal and amber side-marker lamps complying with Para.6.18.7. below, shall be flashing lamps. As per Para.5.10, no red light in the forward direction and no white light in the rearward direction shall be emitted from a lamp (which could give rise to confusion), other than from a reversing lamp and a rear registration plate lamp. While considering this requirement, no account shall be taken of lighting devices fitted

in the interior of the vehicle. In case of doubt, this requirement shall be verified as enumerated in Para.5.10.1 to Para.5.10.3.2. As per Para.5.15, the colours of the light emitted by the lamps shall be as shown in the Table to Para.5.15.

7.10. Para.5.16 of AIS-008 deals with number of lamps. As per Para.5.16.1, the number of lamps mounted on the vehicle should be equal to the number(s) specified in each of Para.6.1. to Para.6.20. Para.6.0 deals with individual specifications of lamps, namely, number, position, width, height, length, geometric visibility, orientation, etc. Para.6.1 deals with main-beam headlight. As per Para.6.1.4.3, which deals with length, the main-beam headlight shall be fitted at the front of the vehicle in such a way that the light emitted does not cause discomfort to the driver either directly or indirectly through the rear-view mirrors and/or other reflecting surfaces of the vehicle. Para.6.2 deals with dipped-beam headlight. As per Para.6.2.4.2, the height of dipped-beam headlight shall not be less than 500 mm and not more than 1,200 mm above the ground. For category N3G (off-road) vehicles (as defined in AIS-053) the maximum height may be increased to 1,500 mm. As per Para.6.2.4.3, which deals with

length of dipped-beam headlight, the requirement shall be deemed to be satisfied if the light emitted does not cause discomfort to the driver either directly, or indirectly through the rear view mirrors and/or other reflecting surfaces of the vehicle.

7.11. Para.6.3 to Para.6.20 of AIS-008 deals with individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. of various lamps and retro-reflectors. Para.6.3 deals with front fog lamp [optional]; Para.6.4 deals with reversing light; Para.6.5 deals with direction indicator lamp; Para.6.6 deals with hazard warning signal; Para.6.7 deals with stop lamp; Para.6.8 deals with rear registration plate (mark) illumination lamp; Para.6.9 deals with front position lamp; Para.6.10 deals with rear position lamp; Para.6.11 deals with rear fog lamp [optional]; Para.6.12 deals with parking lamp; Para.6.13 deals with end-outline marker lamp [mandatory on vehicles and trailers exceeding 2.10m in width]; Para.6.14 deals with rear retro-reflector (non-triangular) [for motor vehicles of M and N category]; Para.6.15 deals with rear retro-reflector (triangular) [mandatory on trailers]; Para.6.16 deals with front retro-reflector (non-triangular) [mandatory on trailers and goods

vehicles]; Para.6.17 deals with side retro-reflector (non-triangular) [mandatory on all motor vehicles the length of which exceeds 6m and on all trailers]; Para.6.18 deals with side-marker lamps [mandatory on all motor vehicles the length of which exceeds 6m, except for chassis cabs]; Para.6.19 deals with daytime running lamp [optional]; and Para.6.20 deals with cornering lamp [optional].

7.12. In view of the general requirements under Para.5.1 of AIS-008, a motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle, shall be permitted to be fitted with only those lighting and light-signalling devices, and also the retro-reflectors referred to in Para.6.0. Paras.6.1 to 6.20 deals with individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. of various lamps and retro-reflectors. As per Para.6.1.4.3 and Para.6.2.4.3, 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. As per Para.6.2.4.2, the

height of dipped-beam headlight shall not be less than 500 mm and not more than 1,200 mm above the ground. As per Para.2.7.14 'front position lamp' should indicate the presence and the width of the vehicle when viewed from the front and as per Para.2.7.15 'rear position lamp' should indicate the presence and the width of the vehicle when viewed from the rear. As per Para.5.3, for all light-signalling devices, the reference axis of the lamp when fitted to the vehicle shall be parallel to the bearing plane of the vehicles on the road. In the case of side retro-reflector and side marker lamps, it shall be perpendicular to the median longitudinal plane of the vehicle and parallel to that plane in the case of all other signalling devices. In each direction, a tolerance of $\pm 3^\circ$ shall be allowed.

7.13. AIS-008 deals 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 a motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special

purpose vehicle motor vehicle 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.

7.14. The combined reading of the definition clauses, i.e., Para.2.7.9, which deals with 'main-beam headlamp'; Para.2.7.10, which deals with 'dipped-beam headlamp'; Para.2.7.11, which deals with 'direction-indicator lamp'; Para.2.7.12, which deals with 'stop lamp'; Para.2.7.13, which deals with 'rear registration plate (mark) illuminating lamp'; Para.2.7.14, which deals with 'front position lamp'; Para.2.7.15, which deals with 'rear position lamp'; Para.2.7.16, which deals with 'retro-reflector'; Para.2.7.18, which deals with 'hazard warning signal'; Para.2.7.19, which deals with 'front fog lamp'; Para.2.7.20, which deals with 'rear fog lamp'; Para.2.7.21, which deals with 'reversing lamp'; Para.2.7.22, which deals with 'parking lamp'; Para.2.7.23, which deals with 'end outline marker lamp'; Para.2.7.24, which deals with 'side-marker lamp'; Para.2.7.25, which deals with 'day time running lamp'; and Para.2.7.26, which

deals with 'cornering lamp' and the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. 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 motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle. 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.

7.15. Use of a motor vehicle in a public place without complying with the installation requirements of lighting and light-signalling devices and also retro-reflectors 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.

7.16. As already notices, AIS-009/2001 deals with installation requirements of lighting and light-signalling devices for two and three wheeler, its trailer and semi-trailer; and AIS-030/2001 deals with installation requirements for lighting and light-signalling devices for agricultural tractor. A motor vehicle governed by AIS-009/2001 or AIS-030/2001, which is not installed with lighting and light-signalling devices and also retro-reflectors conforming to the individual specifications prescribed under those standards; or which is installed with lighting and light-signalling devices or retro-reflectors other than those specified in those standards, shall not be permitted to be used in any public place, since use of any such vehicle is likely to endanger the safety of other road users.

8. **The Motor Vehicles (Driving) Regulations, 2017** made by the Central Government, in exercise of the power conferred by S.118 of the MV Act, and in supersession of the Rules of the Road Regulations, 1989, was notified vide GSR 634(E) dated 23.06.2017. As per Regulation 3 of the Motor Vehicles (Driving) Regulations, 2017 deals with duty towards

other road users and general public. As per Regulation 3, no vehicle shall be driven, stopped or parked on a road or in a public place in such a manner as is likely to endanger the safety of or cause inconvenience to other road users. Regulation 31 deals with vehicle lighting. As per sub-regulation (1) of Regulation 31, the driver shall use the specified lighting devices at nightfall and at dawn and at other times when visibility is poor. As per sub-regulation (2), the lighting devices of a vehicle shall at all times be kept in good working condition and no lighting device shall be obscured by any object or dirt. As per sub-regulation (3), no driver shall drive the vehicle with parking lights only, unless so directed by a police officer in uniform or any other authorised person; and use high beam inappropriately or for long duration or on well-lit roads. As per sub-regulation (4), high beam shall be dipped in good time on the approach of an oncoming vehicle or when driving close behind another vehicle. As per sub-regulation (5), the driver shall switch on the fog light headlamps only when visibility is considerably affected due to fog, dust, storm, rain or snow and only with dipped head lamps.

8.1. The Apex Court in W.P.(C)No.295 of 2012 filed under Article 32 of the Constitution of India, by a public-spirited citizen, seeking enforcement of road safety norms and appropriate treatment of accident victims, constituted a 'Committee on Road Safety', vide its order dated 22.04.2014 - **S. Rajaseekaran v. Union of India [(2014) 6 SCC 36]**, and the said Committee was notified by the Ministry of Road Transport and Highways, Government of India, on 30.05.2014. In the said decision, after referring to the relevant provisions under the Motor Vehicles Act, which deals with licensing; vehicular fitness; etc. the Apex Court observed that, while improvements in different spheres of law are imminent with passage of time, any change of law has to be preceded by serious debate and consideration of a wide variety of factors all of which takes time. While such changes or amendments can be brought in only upon completion of the necessary exercise, the enforcement of the existing laws would stand on an entirely different footing. Strict and faithful enforcement of all existing laws and norms must be insisted upon not only as an absolute principle of law but also for the huge beneficial effects thereof. Though directions to the States to

enforce the existing laws can be issued even in their absence, the Apex Court observed that the matter cannot be allowed to rest merely by issuance of directions. Observance and implementation of the directions to be issued by the Court in exercise of the power under Article 142 of the Constitution of India would require continuing scrutiny and therefore, the Apex Court decided to monitor such implementation and to make the States accountable for any inaction or lapse in this regard. The Apex Court impleaded all the States as party respondents and directed the Government of each State to effectively implement and enforce all the provisions of the Motor Vehicles Act in respect of which the States have the authority and obligation to so act under the Constitution, in addition to the tasks specifically alluded to in the subsequent paragraphs of that order dated 22.04.2014. By the said order, the Apex Court constituted a Committee having the composition, as enumerated in paragraphs 35, and the functions, as enumerated in paragraphs 36.4 to 36.8, to undertake the process of monitoring on behalf of the Court, the measures undertaken by the Central Government and the

State Governments and the extent of affirmative action on part of the Union and the States, from time to time.

8.2. In W.P.(C). No. 295 of 2012, the Apex Court delivered a judgment dated 30.11.2017 - **S. Rajaseekaran v. Union of India [(2018) 13 SCC 516]**. In the said decision, the Apex Court observed that all States and Union Territories are expected to implement the Road Safety Policy with all due earnestness and seriousness. The responsibility and functions of the Road Safety Council constituted in terms of Section 215 of the Motor Vehicles Act will be as recommended by the Committee on Road Safety constituted as per the order dated 22.04.2014 and Road Safety Councils should periodically review the laws and take appropriate remedial steps whenever necessary. In paragraph 94.13 of the said decision, in the context of Lane Driving, the Apex Court held that the Ministry of Road Transport and Highways has already issued the Motor Vehicles (Driving) Regulations, 2017, vide G.S.R.634 (E) dated 23.06.2017, which should be implemented by the State Governments and Union Territories strictly. Paragraphs 94.1 to 94.25 of the said decision contains various directions issued by the Apex Court. In paragraph 95, the Apex

Court has made it clear that, if there is any doubt or clarity is required in implementing those directions, the State Government or Union Territory concerned is at liberty to move the Committee on Road Safety.

8.3. Section 177A of the Motor Vehicles Act, inserted by the Motor Vehicles (Amendment) Act, 2019, deals with penalty for contravention of regulations under Section 118. As per Section 177A, whoever contravenes the regulations made under Section 118, shall be punishable with fine which shall not be less than five hundred rupees, but may extend to one thousand rupees. Section 182A of the Motor Vehicles Act, inserted by the Motor Vehicles (Amendment) Act, 2019 deals with punishment for offences relating to construction, maintenance, sale and alteration of motor vehicles and components. As per 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.

9. **The Kerala Motor Vehicles Rules, 1989** made by the State Government, in exercise of its rule making power under the relevant provisions of the Motor Vehicles Act was published vide notification dated 25.07.1989. Rule 93 of the Kerala Motor Vehicles Rules deals with the particulars to be painted on transport vehicles. As per Rule 93, save in the case of a motor cab or any motor vehicle belonging to the State or Central Government, the following particulars in respect of every transport vehicle shall be exhibited on the left hand side of the vehicle in English letters and numerals, each not less than two and a half centimetres square legibly painted either on a plane surface of the vehicle or a plate or plates affixed to it: (a) the name and address in brief of the registered owner; (b) the unladen weight of the vehicle; (c) the number, nature and size of the tyres attached to each wheel; (d) the gross vehicle weight of the vehicle and the registered axle weight pertaining to the several axles thereof; (e) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods,

the number of passengers for whom accommodation is provided;
(f) the name of the insurer with whom the vehicle is insured; and
(g) the date of expiry of the permit and the date of expiry of the certificate of fitness.

9.1. Rule 105 of the Kerala Motor Vehicles Rules deals with certificate of fitness. As per sub-rule (3) of Rule 105, which deals with standard of inspection, before the issue or renewal of a certificate of fitness, the inspecting authority or the registering authority shall conduct a thorough inspection of all parts of the vehicle with particular reference to matters if any specified by the Central Government, to ensure that they are in sound and satisfactory condition, and the vehicle in general complies with the requirements of the Act and the Rules made thereunder. As per the proviso to sub-rule (3), when minor defects are found on such inspection, the inspecting authority or registering authority may instead of refusing a certificate of fitness defer the issue or renewal of the certificate, until the defects are satisfactorily rectified. Rule 109 of the Kerala Motor Vehicles Rules deals with cancellation of certificate of fitness. As per sub-rule (1) of Rule 109, the registering authority or any Inspector of Motor Vehicles

may cancel the certificate of fitness of a transport vehicle under sub-section (4) of Section 56 of the Act if in his opinion the vehicle does not comply with the provisions of the Act or the rules made thereunder.

9.2. Rule 191 of the Kerala Motor Vehicles Rules deals with prohibition of advertisement or writing on vehicles and Rule 192 deals with prohibition of painting or marking in certain manner. Chapter VII of the Kerala Motor Vehicles Rules deals with construction, equipment and maintenance of motor vehicles. Part I of Chapter VII deals with general rules applicable to all motor vehicles. As per sub-rule (1) of Rule 249, no person shall use and no person shall cause or allow to be used or to be in any public place any motor vehicle which does not comply with the rules contained in Chapter VII or with any order thereunder made by the competent authority. Rule 259 of the Kerala Motor Vehicles Rules, which deals with painting, provides that no motor vehicle other than a motor vehicle registered under sub-section (1) of Section 60 of the Act, shall be painted in olive green colour, navy blue colour in disruptive and camouflage pattern and bear markings like B.A.Nos. [Board Arrow Numbers], formation signs

and tactical numbers. Part II of Chapter VII deals with special rules applicable to every transport vehicles other than an autorickshaw. As per Rule 261, the body of every transport vehicle shall be soundly constructed and securely fastened to the frame of the vehicle and in accordance with the specifications, if any, laid down by the State or Regional Transport Authority. Rule 264 of the Kerala Motor Vehicles Rules deals with paintwork or varnish. As per Rule 264, the paintwork or varnish of every transport vehicle shall be maintained in a clean and sound condition and in accordance with the specifications, if any, laid down by the State or Regional Transport Authority.

9.3. Part II of Chapter VII of the Kerala Motor Vehicles Rules deals with special rules applicable to every public service vehicle other than an autorickshaw. Rule 278 of the Kerala Motor Vehicles Rules provides that, every vehicle shall be so constructed that save for the front pillars of the body, the driver shall have a clear vision both to the front and through an angle of ninety degrees to his right or left-hand side, as the case may be. The front pillars of the body shall be so constructed as to cause the least possible obstruction to the vision of the driver.

9.4. Part III of Chapter VII of the Kerala Motor Vehicles Rules deals with special rules applicable to every public service vehicle other than an autorickshaw. As per Rule 278 of the Kerala Motor Vehicles Rules, every vehicle shall be so constructed that save for the front pillars of the body, the driver shall have a clear vision both to the front and through an angle of ninety degrees to his right or left-hand side, as the case may be. The front pillars of the body shall be so constructed as to cause the least possible obstruction to the vision of the driver. Rule 286 of the Kerala Motor Vehicles Rules, which deals with internal lighting, provides that every vehicle shall be furnished with one or more electric lights adequate to give reasonable illumination throughout the passenger compartment or compartments but of such power or so screened as not to impair the forward vision of the driver. Rule 289, which deals with prohibition of audio-visual or radio or tape recorder type of devices, provides that no public service vehicle other than a contract carriage shall be installed with any audio-visual devices. Rule 359 of the Kerala Motor Vehicles Rules deals with horns. As per sub-rule (1) of Rule 359, no driver of a motor vehicle shall sound the horn or other device for giving audible

warning with which the motor vehicle is equipped, or shall cause or allow any other person to do so to an extent beyond that which is reasonably necessary to ensure safety.

9.5. Rule 360 of the Kerala Motor Vehicles Rules deals with restriction regarding use of lamps. As per sub-rule (1) of Rule 360, the driver of a motor vehicle shall at all times when the lights of the motor vehicle are in use so manipulate them that danger or undue inconvenience is not caused to any person by dazzling. Sub-rule (2) of Rule 360 provides that, save when left within twenty-three metres of the nearest lighted lamp or the side of a public road having a system of lighting by electric lamps no person shall keep stationary any motor vehicle without exhibiting the parking lights thereon within the hours during which lights are otherwise required under these rules. As per sub-rule (3) of Rule 360, no person shall drive any motor vehicle in any public road lighted by a system of electric lamps in the cities of Trivandrum, Cochin and Calicut or in any Municipal town without dimming or dipping the head lamps of the vehicle. Rule 361 of the Kerala Motor Vehicles Rules deals with restriction on illuminated advertisements. As per Rule 361, no illuminated

advertisements shall be carried or displayed on any motor vehicle.

10. In **M.C. Metha v. Union of India [(1997) 8 SCC 770]** a Three-Judge Bench of the Apex Court held that the existing provisions in the Motor Vehicles Act alone are sufficient to clothe the members of the police force and the transport authorities with ample powers to control and regulate the traffic in an appropriate manner so that no vehicle being used in a public place poses any danger to the public in any form. The requirement of maintaining the motor vehicles in the manner prescribed and its use if roadworthy in a manner which does not endanger public, has to be ensured by the authorities and this is the aim of the provisions enacted in the Motor Vehicles Act.

10.1. 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 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 the '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.

10.2. In **Usha Nanthini M. v. Secretary, Regional Transport Authority [2018 (2) KHC 89]** this Court held that a transport vehicle which is registered under Section 39 of the Motor Vehicles Act can be driven or plied on road only if it possesses a valid fitness certificate. If it is not having a valid fitness certificate, it shall be deemed to be an unregistered motor

vehicle. Further, the certificate of fitness issued under Section 56 of the Act in respect of a transport vehicle is liable to be cancelled at any time, for reasons to be recorded in writing, if the prescribed authority is satisfied that the vehicle to which it relates no longer complies with all the requirements of the Act and the rules made thereunder. This Court held further that use of a transport vehicle which is not roadworthy in the manner prescribed under the Motor Vehicles Act and the rules made thereunder would endanger the life of the travelling public and also the public on the road, as there is every possibility that driving of such vehicles may lead to major road accidents. Therefore, strict compliance with the provisions of Rule 62 of the Central Motor Vehicles Rules, read with the relevant provisions under Chapter V of the said Rules, insofar as the same are applicable to transport vehicles, is highly essential for permitting the use of a transport vehicle on the road. A vehicle which no longer complies with all the requirements of the Motor Vehicles Act and the rules made thereunder cannot be permitted to be driven or plied on the road.

10.3. In **Saji's case [2019 (3) KHC 836]** this Court held

that, in view of the provisions under Rules 102 to 111 of the Central Motor Vehicles Rules, Rules 249 and 360 of the Kerala Motor Vehicles Rules, the provisions under the Motor Vehicles (Driving) Regulations, 2017 and also the law laid down by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]** and **S. Rajaseekaran [(2018) 13 SCC 516]**, every motor vehicle shall be fitted with signalling devices, direction indicators, reflectors, reflective tapes, lamps, parking lights, etc. as per the mandate of the provisions under the Central Motor Vehicles Rules and such signalling devices, direction indicators, reflectors, reflective tapes, lamps, parking lights, etc. have to be maintained as such. As per the mandate of Rule 124 of the Central Motor Vehicles Rules, every manufacturer shall get the prototype of the part, component or sub-assembly used in the manufacture of a vehicle, for which standards have been notified, approved from any agency referred to in Rule 126. Therefore, the signalling devices, direction indicators, reflectors, lamps, parking lights, etc. fitted on a motor vehicle by the manufacturer, after obtaining prototype approval for those parts under Rule 124 of the Central Motor Vehicles Rules, have to be maintained as such.

10.4. In **Saji's case** this Court held that the use of a motor vehicle in public place without maintaining the specified lighting devices, reflectors, etc. as per the provisions under the Central Motor Vehicles Rules, is likely to endanger the safety of other road users. No person shall use or cause or allow to be used in any public place any motor vehicle which does not comply with the provisions of Chapter V of the Central Motor Vehicles Rules, which deals with construction, equipment and maintenance of motor vehicles. Therefore, putting any object in front of such lighting devices, reflectors, etc. or 'tinting' such lighting devices (i.e., headlights, tail lights, etc.) or reflectors by fixing vinyl tint film sticker, is legally impermissible.

10.5. In **Saji's case** this Court held further that, as held by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]** 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. What is permitted has been specifically provided for and what has not been specifically stated would obviously be deemed

to have been excluded from the Central Motor Vehicles Rules. Therefore, no motor vehicle can be fitted with any lights or lighting device other than those specifically provided under the provisions of the Central Motor Vehicles Rules. As per the mandate of sub-rule (1) of Rule 360 of the Kerala Motor Vehicles Rules, the driver of a motor vehicle shall at all times when the lights of the motor vehicle are in use so manipulate them that danger or undue inconvenience is not caused to any person by dazzling. Therefore, use of LED bar lights, LED flexible strip lights, after-market (Non-OEM) halogen driving lamps, etc. on a motor vehicle is legally impermissible.

10.6. In **Saji's case** this Court directed the Transport Commissioner to take necessary steps to ensure that no motor vehicle, including a Government vehicle, is allowed 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, either by pasting any material upon the safety glass or by fixing sliding 'cloth curtains', etc. and that, the safety glass of the windscreen and rear window of every motor vehicle is always maintained in such a condition that the

visual transmission of light is not less than 70% and that of the safety glass used for side windows is not less than 50%, as per the mandate of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules. The Transport Commissioner was directed to take necessary steps to ensure strict compliance of the provisions under Rules 102 to 111 of the Central Motor Vehicles Rules and no motor vehicle shall be allowed to be used in any public place without maintaining the signalling devices, direction indicators, reflectors, reflective tapes, lamps, parking lights, etc. as specified thereunder, in good working condition; since the use of any motor vehicle in a public place without complying with the mandatory requirements of the said rules is likely to endanger the safety of other road users. No motor vehicle shall be permitted to be used in public place putting any object in front of such lighting devices, reflectors, etc. or 'tinting' such lighting devices (i.e., headlights, tail lights, etc.) or reflectors by fixing vinyl tint film sticker. No motor vehicle shall be permitted to be used in any public place, which is fitted with any lights or lighting devices other than those specifically provided under the provisions of the Central Motor Vehicles Rules. No motor vehicle

shall be permitted to be used in a public place which is fitted with LED bar lights, LED flexible strip lights, after-market (Non-OEM) halogen driving lamps, etc. No transport vehicle, including the vehicles owned/operated by KSRTC and KURTC, shall be permitted to be used in any public place exhibiting advertisements, figures, writings, etc. which are likely to distract the attention of other drivers, cyclists and pedestrians. Exhibition of no such advertisements, figures, writings, etc. shall be permitted on the body of the transport vehicle at places intended for exhibiting the name and address of the operator as per clause (g) of Section 84 of the Motor Vehicles Act; the particulars enumerated in clauses (a) to (g) of Rule 93 of the Kerala Motor Vehicles Rules; the reflectors and reflective tapes as per Rule 104 of the Central Motor Vehicles Rules; and also on the safety glass of the windscreen, rear window and side windows of a transport vehicle which has to be maintained as per the standards prescribed under sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules. The Transport Commissioner was directed further to take necessary steps to implement the provisions under the Motor Vehicles (Driving) Regulation, 2017

strictly, in view of the direction issued by the Apex Court in **S.Rajaseekaran v. Union of India [(2018) 13 SCC 532]**.

10.7. In **Saji's case** this Court held that, fitment of flashing light devices on a motor vehicle, other than as specifically provided under sub-rule (1) of Rule 102 of the CMV Rules, is legally impermissible, in view of the law laid down by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]** that, 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 CMV Rules. Paragraphs 25 and 26 of the said decision reads thus;

"25. As per sub-rule (1) of Rule 102, the signal to turn to the right or to the left shall be given by electrically operated direction indicator lamps on all motor vehicles including construction equipment vehicles and combined harvester, and such construction equipment vehicles and combined harvester be fitted and maintained so that conditions enumerated in clauses (i) to (iii) of sub-rule (1) are met. As per clause (i) of sub-rule (1) of Rule 102, the direction indicator lamps shall be of amber colour which is illuminated to indicate the intention to turn, by a light flashing at the rate of not less than 60 and not more than 120 flashes per minute. As per sub-rule (1) of Rule 103 of the CMV Rules, a motor vehicle including construction

equipment vehicle and combine harvester shall be fitted with a direction indicator and every direction indicator shall be so designed and fitted that the driver of the vehicle, when in his driving seat is aware that it is operating correctly. The motor vehicles specified under sub-rule (2) of Rule 103 shall be equipped with such a device that when the vehicle is in an immobilized condition all the direction indicators flash together giving hazard warning to other road users.

26. The fitment of flashing light devices on a motor vehicle, other than as specifically provided under sub-rule (1) of Rule 102 of the CMV Rules, is legally impermissible, in view of the law laid down by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]** that, 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 CMV 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 the CMV Rules."

10.8. In **Saji's case**, in the context of Rule 108 of the Central Motor Vehicles Rules which deals with use of red, white or blue light, this Court held that, 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. Paragraphs 18, 19 and 27 of the said decision read thus;

"18. Rule 108 of the CMV 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]

(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)."

19. In exercise of powers conferred under sub-rule (4) of Rule 108 of the CMV 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 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.

xxx xxx xxx

27. In exercise of powers conferred under sub-rule (4) of Rule 108 of the CMV 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 emergency and disaster management duties enumerated in clauses (a) to (c), 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, may be allowed to use multi-coloured red, blue and white light on its top; however, the multi-coloured light shall not be put to use when the vehicle is not on the designated duty. 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.”

11. In the instant case, the vehicle covered by Ext.P2 certificate of registration is a 2003 model 'Ashok Leyland Hino 4123', which was available in the market in 'face cowl and chassis' configuration, with or without windshield, that requires building of cab (driver cabin), load body or passenger compartment to perform its intended functions. The face cowl (front end) shall be fitted headlights, just above the front bumper and below the level of front wheel arch. The front cowl shall also be fitted with front position lamps/direction indicators to indicate the presence and the width of the vehicle when viewed from the front. The vehicle configuration 'drive away chassis', without any cab or body shall also be fitted with headlights and front position lamps/direction indicators, just above the front bumper. The rear end of the chassis shall be fitted with tail lamp clusters on either side. The head lights, front position lamps/direction indicators fitted by the manufacturer on the face cowl or on the drive away chassis, after obtaining prototype approval for that component,

as per the mandate of Rule 124 of the Central Motor Vehicles Rules, has to be maintained as such.

12. The main-beam headlamps and dipped-beam headlamps, which are installed on a motor vehicle at appropriate position, 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, in order to avoid danger or undue inconvenience caused to any person by dazzling, and in such a manner that correct adjustment of its orientation can easily be carried out, have to be maintained as such. Similarly, the position of the front position lamps, which are installed on a motor vehicle at appropriate position, in conformity with the standards for installation, to indicate the presence and the width of the vehicle when viewed from the front, has also to be maintained as such.

12.1. In the instant case, as evident from the photographs placed on record along with the inspection report of the additional 2nd respondent Motor Vehicles Inspector dated 08.08.2019 and Annexure R2(b) photographs along with the affidavit filed by the said respondent dated 26.10.2019, after

modifying the face cowl, the 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. Therefore, the headlights and front position lamps fitted on the front cowl of the 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.

13. As evident from the photographs placed on record

along with the inspection report dated 08.08.2019 and Annexure R2(b) photographs along with the affidavit dated 26.10.2019 of the additional 2nd respondent, 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. The 'rear registration plate (mark) illuminating lamp' fitted on the vehicle to illuminate the space accommodating rear registration plate is also not maintained as per the prototype approval obtained by the manufacturer.

14. Section 84 of the Motor Vehicles Act deals with general conditions attached to all permits. Clause (a) of Section 84 provides that the vehicle to which the permit relates carries valid certificate of fitness issued under Section 56 and is at all times so

maintained as to comply with the requirements of Motor Vehicles Act and the rules made thereunder. Clause (g) of Section 84 provides further that the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicles centered as high as practicable, below the window line in bold letters.

14.1. As per clause (xviii) of sub-section (2) of Section 92 of the Motor Vehicles Act, a State Government may make rules for regulating the painting or marking of transport vehicle and display of advertising matters thereon, and in particular prohibiting the painting or marking of transport vehicles in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails. In exercise of the rule making power under clause (xviii) of sub-section (2) of Section 92 of the Motor Vehicles Act, the State Government made Rule 191 of the Kerala Motor Vehicles Rules, which deals with prohibition of advertisement or writing on vehicles. As per sub-rule (1) of Rule 191, no advertising device, figure or writing shall

be exhibited on any transport vehicle, save as may be specified by the State or Regional Transport Authority by general or specific order and on payment of fee of Rs.20/- per 100 centimetre square for an advertisement in writing and Rs.40/- per 100 centimetre square for an electronic advertisement for a period of one year or part thereof for each vehicle. As per sub-rule (2) of Rule 191, the matter of each advertisement intended to be exhibited on the vehicle shall be approved by the State or Regional Transport Authority.

14.2. Rule 134 of the Central Motor Vehicles Rules deals with emergency information panel. As per sub-rule (1) of Rule 134, every goods carriage used for transporting any dangerous or hazardous goods shall be legibly and conspicuously marked with an emergency information panel in each of the three places indicated in the Table below the said Rule, so that the emergency information panel faces to each side of the carriage and to its rear and such panel shall contain the information enumerated in clauses (i) to (iv) of the said sub-rule.

14.3. Rule 93 of the Kerala Motor Vehicles Rules deals with the particulars to be painted on transport vehicles. As per Rule

93, save in the case of a motor cab or any motor vehicle belonging to the State or Central Government, the following particulars in respect of every transport vehicle shall be exhibited on the left hand side of the vehicle in English letters and numerals, each not less than two and a half centimetres square legibly painted either on a plane surface of the vehicle or a plate or plates affixed to it: (a) the name and address in brief of the registered owner; (b) the unladen weight of the vehicle; (c) the number, nature and size of the tyres attached to each wheel; (d) the gross vehicle weight of the vehicle and the registered axle weight pertaining to the several axles thereof; (e) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation is provided; (f) the name of the insurer with whom the vehicle is insured; and (g) the date of expiry of the permit and the date of expiry of the certificate of fitness.

14.4. Part IV off the Kerala Motor Vehicles Rules deals with special rules applicable to every educational institution bus and private service vehicle. As per sub-rule (2) of Rule 290, every educational institution bus shall be painted in 'Golden-Yellow'

colour as per IS: 5-1994 (as amended from time to time). For school identification, a band of 150 mm wide of 'Golden Brown' colour shall be provided on all sides of the bus below window level. As per the proviso to sub-rule (2), the said sub-rule shall be applicable to educational institution buses registering on and after the 1st day of January, 2014. The said provision shall be applicable to the educational institution buses registered before the 1st day of January, 2014 at the time when the vehicle is produced for certificate of fitness. As per Rule 291, the name of the institution shall be written conspicuously at the top of the front and rear ends and on the left side of the body of the vehicle and the writings shall be horizontal.

14.5. Rule 264 of the Kerala Motor Vehicles Rules, which deals with paintwork or varnish, provides that the paintwork or varnish of every transport vehicle shall be maintained in a clean and sound condition and in accordance with the specifications, if any, laid down by the State or Regional Transport Authority. In exercise of the powers under Rule 264, uniform colour scheme has been implemented for different classes of stage carriages operating throughout the State as City/Town Services,

Mofussil/Ordinary Services and Limited Stop/Ordinary Services, vide the decision dated 04.01.2018 of the State Transport Authority. The colour scheme prescribed as per the said decision of the State Transport Authority reads thus;

- City/Town Services - Lime Green (colour value = #338e31) with three equally spaced white lines below the height of the wheel arch.
- Mofussil/Ordinary Services - Deep Sky Blue (colour value = #12bce0) with three equally spaced white lines below the height of the wheel arch.
- Limited Stop Ordinary Services - Maroon (colour value = #871414) with three equally spaced white lines below the height of the wheel arch.

As per the decision of the State Transport Authority dated 04.01.2018 a stage carriage shall be in the uniform colour scheme specified therein, with effect from 01.02.2018 and the Secretary of the Regional Transport Authority is directed to ensure the same at the time of producing the vehicle for certificate of fitness or renewal of certificate of fitness. It is also specified that no other graphics, figures or colour schemes other than those permitted under Rule 191 of the Kerala Motor Vehicles

Rules (which deals with exhibition of advertisement) shall be allowed.

14.6. In **Hindustan Petroleum Corporation Ltd., Kochi v. State of Kerala and others [2016 (3) KHC 693]**, in the context of Rule 191 of the Kerala Motor Vehicles Rules, this Court held that the said Rule provides for imposition of fee not only for advertisements, but also for figures or writings. After referring to the provisions under Rule 134 of the Central Motor Vehicles Rules, which deals with 'emergency information panel' for goods carriages used for transporting any dangerous or hazardous goods, this Court held that the writings contained in tanker trucks operated by Hindustan Petroleum Corporation Limited by exhibiting its name in large and bold letters, even though has the characteristics of imposing with fee as prescribed under Rule 191 of the Kerala Motor Vehicles Rules, in view of the stipulations and prescriptions contained under Rule 134 of the Central Motor Vehicles Rules, are not liable to be imposed with fee for such writings made on the tanker trucks. However, this Court made it clear that, if any inscriptions or writings are made on such transport vehicles inviting public attention for the products of the

petitioner company, Rule 191 of the Kerala Motor Vehicles Rules will come into play.

14.7. In **Jijith and others v. State of Kerala and others [2019 (1) KHC 463]** this Court held that the paintwork or varnish of every transport vehicle shall be maintained in a clean and sound condition, which is the mandate of Rule 264 of the Kerala Motor Vehicles Rules. If the State or Regional Transport Authority has laid down any specifications like uniform colour scheme, the paintwork of the transport vehicle shall be in accordance with that specifications. Any figure or writing exhibited on the transport vehicle, other than the name and address of the operator to be painted or otherwise firmly affixed as per clause (g) of Section 84 of the Motor Vehicles Act; the 'emergency information panel' provided under Rule 134 of the Central Motor Vehicles Rules for goods carriages used for transporting any dangerous or hazardous goods; the particulars enumerated in clauses (a) to (g) of R.93 of the Kerala Motor Vehicles Rules, painted on the body of the vehicle; the name of the institution exhibited in educational institution bus and private service vehicle as per Rule 291 of the Kerala Motor Vehicles

Rules; etc., falls within the scope of Rule 191 of the Kerala Motor Vehicles Rules. Any such figure or writing exhibited on the transport vehicle with an object to invite public attention and to promote the contract or stage carriage service of the operator will attract the provisions of Rule 191 of the Kerala Motor Vehicles Rules.

14.8. In **Jijith's case** this Court held that, the exhibition of writings and figures on vehicles by its very nature are intended to attract attention, which would cause distraction to the drivers of other vehicles, cyclists and even pedestrians on the public road. Driver distraction is one of the major causes of road accidents, which is a situation where the attention of the driver is diverted to any other forms of activities, which may affect the concentration of driving activity as well as the safety of the passengers and others on public road. Earning of revenue by the State by the levy of fee under Rule 191 of the Kerala Motor Vehicles Rules or generation of some additional income by the operator of the transport vehicle should not be at the cost of public safety. Therefore, exhibition of writings or figures with the sole object to invite public attention and to promote the contract

or stage carriage service should not be permitted by levying fee under Rule 191 of the Kerala Motor Vehicles Rules.

14.9. In **Jijith's case** this Court held further that, the paintwork of every transport vehicle shall be maintained in a clean and sound condition, as contemplated by Rule 264 of the Kerala Motor Vehicles Rules. While approving the matter intended to be exhibited on the vehicle, in exercise of the powers under sub-rule (2) of Rule 191 of the Kerala Motor Vehicles Rules, the State or the Regional Transport Authority shall ensure that it does not cause distraction to the drivers of other vehicles and also cyclists and pedestrians on public road. No approval under sub-rule (2) of Rule 191, shall be granted for exhibition of any advertisements, writings, figures, graphics, etc. on the body of a transport vehicle, at places intended for exhibiting the name and address of the operator as per clause (g) of Section 84 of the Motor Vehicles Act; the 'emergency information panel' as per Rule 134 of the Central Motor Vehicles Rules for goods carriages used for transporting any dangerous or hazardous goods; the particulars enumerated in clauses (a) to (g) of Rule 93 of the Kerala Motor Vehicles Rules; the name of the institution exhibited

in educational institution bus and private service vehicle as per Rule 291 of the Kerala Motor Vehicles Rules; etc. In the case of a stage carriage in respect of which uniform colour scheme has been implemented under Rule 264 of the Kerala Motor Vehicles Rules, vide the decision of the State Transport Authority dated 04.01.2018, no approval under sub-rule (2) of Rule 191, shall be granted for exhibition of any advertisements, writings, figures, graphics, etc., over the three equally spaced white lines painted below the height of the wheel arch.

15. As already noticed, Section 182A of the Motor Vehicles Act, inserted by the Motor Vehicles (Amendment) Act, 2019 deals with punishment for offences relating to construction, maintenance, sale and alteration of motor vehicles and components. As per 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. Section 190 of

the Motor Vehicles Act, as substituted by Section 72 of the Motor Vehicles (Amendment) Act, 2019 deals with using vehicle in unsafe condition. As per sub-section (4) of Section 206 of the Motor Vehicles Act, inserted by Section 88 of the Motor Vehicles (Amendment) Act, 2019, 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 Section 183, Section 184, Section 185, Section 189, **Section 190**, Section 194C, Section 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**.

16. In view of the provisions of the Motor Vehicles Act, 1988, as amended by the Motor Vehicles (Amendment) Act, 2019, stringent action has to be taken against a person who drives or causes or allows to be driven in any public place a motor vehicle, which violates the standard prescribed in relation to road safety. Stringent action has to be taken against every motor vehicle, including stage carriages, contract carriages, educational institution buses, which are used in any public place

without installing the lighting, light-signalling devices and also retro-reflectors specified in AIS-008; AIS-009; and AIS-030, conforming to the individual specifications for such lighting, light-signalling devices and retro-reflectors, namely, number, position, width, height, length, geometric visibility, orientation, etc. Similarly, no motor vehicle, which is installed with lighting, light-signaling devices or retro-reflectors other than those specified in AIS-008; AIS-009; and AIS-030 shall be permitted to be used in any public place. Use of a motor vehicle in any public place, in violation of the safety standards prescribed for lighting, light-signalling devices and also retro-reflectors will attract penal consequences under sub-section (2) of Section 190 of the Motor Vehicles Act. In view of the amended provisions of Section 200, read with sub-section (4) of Section 206, a police officer or other person authorised in this behalf by the State Government shall seize the driving licence of the driver of such motor vehicles, who has committed an offence under Section 190 of the Act and forward it to the Licensing Authority for disqualification or revocation proceedings under Section 19 of the Motor Vehicles Act.

17. **Display of registration marks:-** Rule 50 of the Central Motor Vehicles Rules deals with form and manner of display of registration marks on motor vehicles. Clauses (i) to (vi) of sub-rule (1) of Rule 50 deals with the specifications of the security license plate, which shall be displayed both at the front and at the rear of all motor vehicles clearly and legibly. Clause (vi) of sub-rule (1) specifies the size of the plate for different categories of vehicles. Sub-rules (2) to (4) of Rule 50 of the Central Motor Vehicle Rules read thus;

"50. Form and manner of display of registration marks on the motor vehicles.- (1) On or after commencement of this rule, the registration mark referred to in sub-section (6) of Section 41 shall be displayed both at the front and at the rear of all motor vehicles clearly and legibly in the form of security licence plate of the following specifications, namely:—

(i) xxx xxx xxx
 xxx xxx xxx

(vi) the size of the plate for different categories of vehicles shall be as follows:-

For two wheelers, three wheelers, quadricycles, E-rickshaws and E-carts	200 x 100mm
For light motor vehicles and passenger cars	340 x 200mm/ 500 x 120mm
For medium commercial vehicles, heavy	340 x 200mm

commercial vehicles and trailer/ combination	
xxx	xxx

Provided also that in case of a motor cycle, the size of 285 x 45 mm for the front registration plate shall also be permitted.

(2) In the case of motor cycles the registration mark in the front shall be displayed parallel to the handle bar or on any part of the vehicle including mudguard facing the front instead of, on a plate in line with the axis of the vehicle:

Provided that-

(a) the registration mark exhibited at the rear of a transport vehicle shall be affixed to the vehicle on the right hand side at a distance not exceeding one metre from the ground as may be reasonably possible having regard to the type of the body of the vehicle;

(b) the registration mark shall also be painted on the right and left side on the body of the vehicle in the case of a transport vehicle;

(c) the registration mark shall also be painted and exhibited on the partition provided between the driver and the passengers, facing the passengers' seats or, where there is no such partition, on the front interior of the vehicle near the roof to the left side of the driver's seat facing the passengers' seats in the case of a stage carriage or a contract carriage and in the case of a motor cab or a taxi cab it shall be sufficient if the registration mark is painted on the dash-board;

(d) the letters of the registration mark shall be in English and the figures shall be in Arabic numerals and shall be shown-

- (A) in the case of transport vehicles in black colour on yellow background; and
- (B) in other cases, in black colour on white background, the registration mark on the trailer shall be exhibited on the left hand side in black colour on yellow background. In addition, the registration mark on the drawing vehicle shall be exhibited on the trailer also and this shall be done on the right hand side at the rear of the trailer or the last trailer as the case may be, in black colour on retro-reflective type yellow background:

Provided that where provisions of this clause have not been complied with in respect of motor vehicle, on or before the commencement of the Central Motor Vehicles (8th Amendment) Rules, 2001, then the provisions shall be complied with,—

- (i) in respect of transport vehicle, on or before 1st February, 2002; and
- (ii) in other cases, on or before 1st July, 2002.

(3) The registration mark shall be exhibited in two lines, the State code and registering authority code forming the first line and the rest forming the second line, one below the other:

Provided that the registration mark in the front may be exhibited in one line in case, in 200mm × 100mm size

plate, there is no sufficient space to exhibit the registration mark in one line, the alpha numeric of the registration mark shall be displayed as under:

- (i) where the total number of alpha numeric characters in the registration mark is even, then, equal number of alpha numeric characters in each line; and
- (ii) where the total number of alpha numeric characters in the registration mark is odd, then any extra alpha numeric character shall be exhibited on the second line;

and all dimensions shall be maintained as per Rule 51 without disturbing security features in the plate.

Provided further that in models of vehicles having no sufficient provision at the rear to exhibit the registration mark in two lines, it shall be sufficient if in such vehicles registration mark is exhibited in a single line:

Provided further that registration mark on a light motor vehicle may be in the centre with illumination.

(4) Every motor vehicle, except motor cab and motor car, manufactured on and from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1993, shall be provided with sufficient space in the rear for display of registration mark in two lines.

xxx xxx xxx''

17.1. Rule 51 of the Central Motor Vehicles Rules deals with size of letters and numerals of the registration mark. As per Rule 51, 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 shall be as follows;

Sl. No.	Class of vehicle		Dimensions not less than		
			Height	Thick-ness	Space between
1	2		3	4	5
1	All motor cycles and three-wheeled invalid carriages	Rear-letters	32	7	5
2	All motor cycles and three-wheeled invalid carriages	Rear-numerals	40	7	5
3	Motorcycles with engine capacity less than 70 cc	With front letters and numerals	15	2.5	2.5
4	Other motor cycles	Front-letters and numerals	30	5	5
5	Three wheelers of engine capacity not exceeding 500 cc, E-rickshaws and carts	Rear and front numerals and letters	35	7	5
6	Three wheelers of engine capacity exceeding 500 cc	Rear and front numerals and letters	40	7	5
7	All other motor vehicles	Rear and front letters and numerals	65	10	10
8	Power tillers	front letters and numerals	15	2.5	2.5
9	Trailers coupled to power tillers	Rear letters and numerals	30	5	5
10	Combine harvester	Front and rear letters and numerals	65	10	10
11	Trailer for header assembly of combine harvesters	Rear letters and numerals	65	10	10

17.2. As per Rule Rule 51, 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 in

the case of motor vehicles other than motor cycles, three-wheelers, power tillers, trailers and combine harvester [Sl.No.7] shall not be less than:- Height: **65mm**; Thickness: **10mm**; Space between: **10mm**.

17.3. In view of the provisions under Rules 50 and 51 of the Central Motor Vehicles Rules, the registration mark shall be displayed both at the front and at the rear of two wheelers, three wheelers, quadricycles, E-rickshaws and E-carts on a licence plate having the specification 200 x 100mm. The registration mark shall be displayed both at the front and at the rear of light motor vehicles and passenger cars on a licence plate having the specification 340 x 200mm/500 x 120mm. The registration mark shall be displayed both at the front and at the rear of medium commercial vehicles, heavy commercial vehicles and trailer/combination on a licence plate having the specification 340 x 200mm.

17.4. As per clause (a) of sub-rule (2) of Rule 50 of the Central Motor Vehicles Rules, the registration mark exhibited at the rear of a transport vehicle shall be affixed to the vehicle on the right hand side at a distance not exceeding one metre from

the ground as may be reasonably possible having regard to the type of the body of the vehicle. As per clause (b) of Rule 50, the registration mark shall also be painted on the right and left side on the body of the vehicle in the case of a transport vehicle. As per (3) of Rule 50, the registration mark shall be exhibited in two lines, the State code and registering authority code forming the first line and the rest forming the second line, one below the other.

17.5. Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017 deals with registration plates. As per sub-regulation (1) of Regulation 36, no vehicle shall be driven or parked on a public road without displaying registration plates as prescribed by the Act and the rules made thereunder. Sub-regulation (2) of Regulation 36 provides that the registration plates on the front and at the rear of the vehicle shall be clearly visible and legible and no object whatsoever or dirt shall obstruct clear view of the entire registration place. Sub-regulation (3) provides further that no letter, word, figure, picture or symbol other than the registration number shall be displayed or inscribed or written on the registration plates. As per Sub-regulation (4),

no load or other goods shall be placed on a motor vehicle in such manner as to fully or partly hide the registration plate.

17.6. **Jijith and others v. State of Kerala and others [2019 (1) KHC 463]** this Court held that, as per the mandate of Rules 50 and 51 of the Central Motor Vehicles Rules, every motor vehicle used in any public place shall display registration mark as specified in the aforesaid Rules, at the specified place. In the case of a transport vehicle, the registration mark exhibited on the rear shall be on the right hand side, as mandated by clause (a) of Sub-rule (2); the registration mark shall be painted on the right and left side on the body, as mandated by clause (b) of sub-rule (2); and the registration mark shall be exhibited in two lines, the State code and registering authority code forming the first line and rest forming the second line, one below the other, as mandated by sub-rule (3) of Rule 50. The mandate of clause (b) of sub-rule (2) of Rule 50 cannot be complied with by affixing registration mark on the right and left side on the body using self-adhesive stickers or by affixing number plates. As per sub-regulation (1) of Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017 no vehicle shall be driven or parked on a public

road without displaying registration plates as prescribed by the Act and the rules made thereunder. As per sub-regulation (2), the registration plates on the front and at the rear of the vehicle shall be clearly visible and legible and no object whatsoever or dirt shall obstruct clear view of the entire registration place. As per sub-regulation (3), no letter, word, figure, picture or symbol other than the registration number shall be displayed or inscribed or written on the registration plates. As per Sub-regulation (4), no load or other goods shall be placed on a motor vehicle in such manner as to fully or partly hide the registration plate.

18. **Jijith's case [2019 (1) KHC 463]** this Court held that, in view of the provisions under sub-regulation (1) of Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017, vehicles without displaying registration marks as prescribed by Rule 50 and Rule 51 of the Central Motor Vehicles Rules cannot be treated as vehicles which comply with the provisions of the Motor Vehicles Act and the Rules made thereunder, for the purpose of grant of certificate of fitness.

19. **The State Emblem of India (Prohibition of Improper Use) Act, 2005** is enacted by the Central

Government to prohibit the improper use of State Emblem of India for professional and commercial purpose and for matters connected therewith or incidental thereto. Clause (b) of Section 2 define the term 'emblem' to mean the State Emblem of India as described and specified in the Schedule to the said Act, to be used as an official seal of the Government. Section 4 of the Act deals with prohibition of use of emblem for wrongful gain and Section 6 deals with general powers of Central Government to regulate use of emblem. In exercise of the powers conferred by Section 11 of the State Emblem of India (Prohibition of Improper Use) Act, 2005, the Central Government made the State Emblem of India (Regulation of Use) Rules, 2007 regulating the use of the State Emblem of India in official seal and on stationery and its design. Rule 7 deals with display on vehicles. As per Rule 7, the use of the emblem on vehicles shall be restricted to the authorities specified in Schedule II. Part I of Schedule II deals with constitutional authorities and other dignitaries which may display the emblem on their cars. Part II deals with authorities which may display the Ashoka Chakra (which is part of the emblem) on triangular metal plaques in their cars.

20. **Flag Code of India, 2002** issued by the Government of India, Ministry of Home Affairs [since 'National Flag of India' is one of the items of business allocated to the Department of Home under the said Ministry by the President of India, under the Government of India (Allocation of Business) Rules, 1961 issued in exercise of the powers conferred by clause (3) of article 77 of the Constitution of India] deals with display of National Flag of India. Part III of the Flag Code of India deals with hoisting/display of National Flag by the Central and State Governments and their organisations and agencies. Section IX of Part III deals with display on motor cars. As per the Flag Code of India, the privilege of flying National Flag on motor cars is limited to the dignitaries specified in clauses (1) to (7) of Paragraph 3.44.

21. Section 60 of the Motor Vehicles Act deals with registration of vehicles belonging to the Central Government and used for Government purposes relating to the defence of the country and unconnected with any commercial enterprise. Rule 74 of the Central Motor Vehicles Rules deals with assignment of registration marks to the vehicles belonging to the Central

Government used for defence purposes. As per the provisions 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. senior officers of those forces are entitled to fly official distinguishing flags on their cars and display star plates to denote their presence.

22. The use of State Emblem of India/Asoka Chakra and display of flags on motor vehicles are governed by the provisions referred to hereinbefore, made by the Central Government. The use of the State Emblem of India/Asoka Chakra and display of National Flag on vehicles are restricted to 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. Similarly, flying of official distinguishing flags and display star plates on cars are restricted to senior officers of Indian Army, Indian Air Force, Coast Guard, etc. as specified under the provisions of the Naval

Ceremonial, Conditions of Service and Miscellaneous Regulations, 1963 and similar provisions made by the Central Government.

23. The provisions under the Motor Vehicles Act or the Central Motor Vehicles Rules do not provide for use of any emblem/star plate or display any flag on a motor vehicle. As held by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]**, the Central Motor Vehicles Rules deal with every minute detail of construction and maintenance of a vehicle. What is permitted has been specifically provided for and what has not been specifically stated would obviously be deemed to have been excluded from these Rules. In view of the law laid down by the Apex Court, as above, 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 enacted by the Central Government/the dignitaries specified in clauses (1) to (7) of Paragraph 3.44 of the Flag Code of India, 2002 issued by the Central Government/senior officers of Indian Army, Indian Air Force, Coast Guard, etc. as specified under the provisions of the Naval Ceremonial, Conditions of

Service and Miscellaneous Regulations, 1963 and other similar provisions made by the Central Government, is legally impermissible.

24. 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' in a motor vehicle.

25. In view of the provisions under Rules 50 and 51 of the CMV Rule and Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017 motor cars carrying the constitutional authorities and other dignitaries, which are permitted to use the State Emblem of India/Asoka Chakra/Official Emblem of the State Government [after incorporating the 'State Emblem of India' or any part thereof] and the National Flag, shall display the 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. The registration mark of every such motor car shall be exhibited on a licence plate having the size of 500x120mm. 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 plates. 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.

26. In the instant case, the photographs placed on record along with the inspection report dated 08.08.2019 and Annexure-R2(b) photographs along with the affidavit dated 26.10.2019 of the additional 2nd respondent would show that the registration mark on the front of the petitioner's vehicle is not displayed on a licence plate having the size of 340 x 200mm, 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. 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. In the petitioners vehicle, the registration mark is not displayed using fonts having 'uniform thickness'. As per the mandate of Rule 50, registration mark shall be displayed on all motor vehicles, clearly and legibly. Therefore, registration mark shall be displayed on motor vehicles, using fonts having 'uniform thickness'. The display of registration mark on motor vehicles using 'fancy fonts' or 'decorative fonts' will amount to violation of Rules 50 and 51 of the Central Motor Vehicles Rules and also Regulation 36 of the Motor Vehicles (Driving) Regulations, 2017.

27. **Educational Institution Bus:-** Chapter VII, Part III of the Kerala Motor Vehicles Rules, 1989 deals with special rules applicable to every public service vehicle other than an autorickshaw. Rule 267 deals with passenger capacity. Sub-rule (1) of Rule 267 deals with specifications for seating room. As per clause (d) of sub-rule (1) of Rule 267, in every Educational Institution Bus, every seating position for school children shall be atleast 265 mm in width and 350 mm in depth. As per the proviso to clause (d), this clause shall not be applicable to

Educational Institution Buses registered before the 1st day of January, 2014, but shall apply when its body is reconstructed, at any time, subsequent to the above date. Rule 268 deals with maximum passenger capacity in a vehicle.

27.1. Chapter VII, Part IV of the Kerala Motor Vehicles Rules deals with special rules applicable to every Educational Institution Bus and Private Service Vehicle. Rule 290 deals with seating capacity. As per sub-rule (1) of Rule 290, the seating capacity of an Educational Institution Bus shall be determined subject to the compliance of the specifications laid down in Rules 267 and 268 and that of a private service vehicle shall be determined as provided in Rule 270. Rule 291 deals with exhibition of the name of the institution. Rule 291A deals with emergency exit in Educational Institution Buses. Rule 291A reads thus;

“291A. Emergency Exit in Educational Institution Buses.- (1) Every educational institution bus shall be provided with an emergency exit in the form of a frame fixed with a safety glass with dimensions of 150 cm (One Hundred and Fifty centimeters) horizontally and 120 cm (One hundred and twenty centimeters) vertically for heavy vehicles and 120 cm (One hundred and twenty centimeters) horizontally and 100 cm (One hundred centimeters) vertically for other vehicles or in the form of a

door hinged at the top, capable of being operated both from inside and outside.

(2) The emergency exit shall be fitted at the rear wind screen and the words "EMERGENCY EXIT" shall be prominently inscribed in red colour on a white background both inside and outside of the emergency exit.

(3) At least one guard rail shall be provided across the emergency exit without obstructing the safe passage of the children.

Provided that sub-rule (1), (2) and (3) are not applicable where there are rear doors in the educational institution bus provided by the manufacturer:

Provided also that sub-rule (1), (2), and (3) shall not apply to educational institution buses having wheel base less than 300 cm (three hundred centimeters):

(4) Every Educational Institution Bus shall be provided with side windows on either sides having not less than 55 cm height and 70 cm length.

(5) The provisions of sub-rule (1), (2), (3) and (4) shall not so apply to an educational institution bus registered up to three months from the date of final notification but shall apply when its body is reconstructed, at any time, subsequent to the above date."

27.2. A Division Bench of this Court, in **Siddique P.K.A.**

v. Regional Transport Authority, Kozhikode [ILR 2013 (1) Ker 829], in the context of clause (11) of Section 2 and Section 74 of the Motor Vehicles Act, 1988 held that, whatever may be the nomenclature given in the permit, Contract Carriage

(Educational Institution Bus) attracts provisions of Section 74 of the Act, so far as issuance of a permit is concerned. Another issue before the Division Bench was as to whether the Regional Transport Authority acted without authority or power, in violation of various provisions under the Motor Vehicles Act, while imposing a condition that vehicles which are 15 years of age cannot be permitted to be used on roads by the educational institutions. The Division Bench noticed that such a restriction came to be imposed, as there is reasonable thinking that stage carriage, which is discarded for road use practically and functionally cannot be put to use on road as a contract carriage, where the safety of the children has to be the prime concern. So far as the object it is laudable as paramount consideration is the welfare measure apart from awareness. On the question as to whether such welfare measure was exercised in accordance with the power vested with the authorities under the provisions of the Motor Vehicles Act, the Division Bench noticed that, in **Subash Chandra v. State of U.P. [(1980) 2 SCC 324]** the Apex Court, in the context of Section 51 of the Motor Vehicles Act, 1939 was concerned with a case arising from Uttar Pradesh, where a rule

had been framed by that State Government as to the age of the vehicle in relation to omnibus and the vires of the said rule had been questioned and the said rule was held to be within the competence of the State Government. Under Section 74 of the Motor Vehicles Act, 1988 a similar sentence is used at sub-section (xiii) which means 'any other conditions which may be prescribed'. The authority who has to prescribe such condition, as held in **Subhash Chandra's case (supra)** was the State, which has the power to frame rules as contemplated under the Motor Vehicles Act. However, the State has not prescribed any conditions i.e., restriction with regard to the age of Contract Carriages (Educational Institution Vehicles). Paragraphs 38 and 39 of the said judgment read thus;

"38. The above conditions clearly indicate, the intention was to bring discipline in the work culture of the drivers and create safety awareness so also motor vehicle and other related issue awareness in the minds of children apart from other stakeholders, staff, management faculty and the guardians of the student population; with these safety measure in their mind, according to the State, restriction of the present nature came to be imposed, as there is reasonable thinking that stage carriage, which is discarded for road use practically and functionally cannot be put to use on road as a contract

carriage, where safety of the children has to be prime concern. So far as the object it is laudable as paramount consideration is the welfare measure apart from awareness. This has to be seen from the very provisions, which deal with the procedure imposing such restriction or conditions, which could take into its fold restriction of age also.

39. So far as the judgment in **Subhash Chandra's case (supra)** as already stated above, Section 51 of the Motor Vehicles Act of 1939 was the subject matter. There the State imposed condition No. 18 therefore having regard to the words used 'any other conditions which may be prescribed' the Apex Court said that this is very much within the jurisdiction of the State to impose such condition and therefore the restriction with regard to the age pertaining to contract carriage also was held to be valid. Apparently, under Section 74 of 1988 Act similar sentence is used at sub-section (xiii) which means 'any other conditions which may be prescribed'. The authority who has to prescribe such condition as held in *Subhash Chandra's case (supra)* was State which has the power to form rules as contemplated under the Motor Vehicles Act. In the present case, State has not prescribed any conditions i.e., restriction with regard to the age of the contract carriage (educational Institution vehicles)."

(underline supplied)

27.3. In **Siddique's case (supra)**, the Division Bench noticed the difference between the words used in Section 72 of

the Motor Vehicles Act, 1988, which deals with grant of stage carriage permit and Section 74 of the Act, which deals with grant of contract carriage permit. Sub-section (2) of Section 72 clearly indicates that the Regional Transport Authority is empowered to grant a permit for a stage carriage of a specified description. Specified description has taken into its fold even the age of the vehicle, as indicated in the judgment of the Apex Court in **Subhash Chandra's case (supra)**, so also this High Court and other High Courts. Since Contract Carriage (Educational Institution Vehicles) could neither be called a Stage Carriage nor the conditions imposed would attract provisions of clause (ix) of sub-section (2) of Section 74 or clause (xiii) of sub-section (2) of Section 74, the conditions now imposed restricting the user of the vehicle owned by educational institutions as 15 years is outside the purview of the jurisdiction vested with the transport authorities, as such conditions could be prescribed only by the State and transport authority can vary or add conditions only with reference to clauses (i) to (viii) of sub-section (2) of Section 74. Though the notification issued by various transport authorities restricting the user of the vehicle by the educational

institutions beyond 15 years were quashed on the aforesaid ground, the Division Bench has made it clear that the State Government is empowered to prescribe any conditions in pursuance of powers vested with it as understood from clause (xiii) of sub-section (2) of Section 74 of the Act. Further, it is also the duty of the State Government to impose such conditions having regard to the care and caution already it has taken so far as the vehicles used by educational institutions with reference to the persons who man these vehicles, as indicated in the counter affidavit filed by the State. By the said judgment, the Division Bench has also disposed of W.P.(C)No. 29975 of 2007, which was a public interest litigation, seeking a writ of mandamus commanding the Regional Transport Authority, Kozhikode, not to grant/renew permit to old vehicles of more than 15 years old to run as educational institution buses and to cancel the permits already issued to such vehicles to run as educational institution buses. In that writ petition, the Division Bench directed the State Government to consider the matter in the light of the observations made in the judgment and lay down necessary terms and conditions in accordance with the procedure, in the

light of such observations. Paragraphs 40 to 42 and also the last paragraph of the said judgment read thus;

“40. Then coming to the argument of learned Government Pleader that under sub-section (ix)(a) and (b) would take into its fold the restriction now imposed by the transport authorities. Section 74 deals with ‘grant of contract carriage permit’ and such permit could be granted as per sub-section (2) subject to one or more of the conditions referred. From Section 74(2)(i) to (ix) several restrictions and conditions are envisaged. Subsection (ix) says only after giving notice of not less than one month the conditions of the permit can be varied or add additional conditions. Entire reading of sub-section 74(i) along with sub-section (ix) would only indicate if there is any variance of the conditions of the permit with reference to Section 74(2)(i) to (ix) or additional conditions to be attached to the conditions already indicated in the permit, one month notice has to be given before such exercise is undertaken. The entire Section would indicate addition of conditions or variation of conditions would refer only to conditions under Section 74(2)(i) to (viii) and not otherwise. In that view of the matter, the argument of the learned special Government Pleader that the conditions of the present nature restricting the age of the vehicle will also fall within subsection (ix) of Section 74(2) cannot be accepted.

41. Then coming to the other decisions as discussed above, all pertain to stage carriages. We have already mentioned the difference between the words used in Section 72 and

Section 74. Section 72(2) clearly indicates the Regional Transport Authority is empowered to grant a permit for a stage carriage of a specified description. Specified description has taken into its fold even the age of the vehicle as indicated in the judgment of the Apex Court so also this High Court and other High Courts relied upon by the learned Government Pleader. Having regard to the fact that in the present case neither the vehicle could be called as stage carriage nor the conditions imposed would attract provisions of Section 74(2)(ix) or 74(2)(iii), we have to hold that the conditions now imposed restricting the user of the vehicle owned by educational institutions as 15 years is outside the purview of the jurisdiction vested with the transport authorities as such conditions could be prescribed only by the State and transport authority can vary or add conditions only with reference to Section 74(2)(i) to (viii).

42. In that view of the matter, we are of the opinion, the notification issued by various transport authorities pertaining to different districts restricting the user of the vehicle by the educational institutions beyond 15 years deserves to be quashed. However, we make it clear that the State is empowered to prescribe any conditions in pursuance of powers vested with it as understood from Section 74(2)(xiii). It is also the duty of the State to impose such conditions having regard to the care and caution already it has taken so far as the vehicles used by educational institutions with reference to the persons who manner these vehicles as indicated in the counter affidavit filed by the State.

With the above observations, the writ petitions are disposed of. So far as the Public Interest Litigation, i.e. W.P. (C) No. 29975 of 2007, we direct the State Government to consider the matter in the light of the observations made and lay down necessary terms and conditions in accordance with the procedure in the light of the observations made above." (underline supplied)

27.4. In **Ma'Din Public School v. Regional Transport Officer and another [2019 (2) KLT 1011]** this Court noticed that, despite the direction of the Division Bench in **Siddique's case (supra)**, 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 is lying idle since 01.09.2016, as it is 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.

27.5. In **Ma'Din Public School (supra)**, 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.

27.6. Rule 291A of the Kerala Motor Vehicles Rules, which deals with emergency exit in Educational Institution Buses, was inserted with effect from 15.11.2014, with an object to ensure safety of children in such vehicles used by educational institutions. As per Rule 291A, every Educational Institution Bus shall be provided with an emergency exit, as specified in sub-rule (1). Emergency exit in an Educational Institution Bus is for evacuation of the children, in case of emergency. Therefore, the 'backrest' of the last row seats fitted on such vehicles shall not obstruct safe passage of children through the emergency exit, in case of emergency. In the instant case, as evident from Annexure R2(b) photographs produced along with the affidavit of the additional 2nd respondent dated 26.10.2019 [at page 7] the 'backrest' of the last row seats fitted in the petitioner's vehicle,

obstructs passage of children through the emergency exit, in case of emergency. The 'backrest' of the last row seats covers nearly half of the glass area of the rear windscreen, i.e., half of the glass area of the so called emergency exit.

28. 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, 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.

28.1. The registration mark on the front of the petitioner's vehicle is not displayed on a licence plate having the size of 340 x 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.

28.2. 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.

28.3. 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.

29. 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.

30. 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.

31. 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.

32. 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 terms 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 terms 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.

33. 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's case [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 x 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.

34. 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.

35. The Transport Commissioner, Kerala, Transport Commissionerate, 2nd Floor, Trans Towers, Vazhuthacaud, Thycaud P.O., Thiruvananthapuram-695 014 is suo motu impleaded as additional 3rd respondent in this writ petition. The learned Special Government Pleader enters appearance for additional 3rd respondent.

36. 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 sub-section (4) of Section 56 of the Motor Vehicles Act, by the prescribed authority, for reasons to be recorded in writing.

37. 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.

38. 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 a 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 x 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.

39. 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.

40. 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.

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

42. On production of the vehicle covered by Ext.P5 certificate of Registration, after the petitioner complying 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, the 1st respondent Additional Registering

Authority shall cause the vehicle to be inspected by an inspecting officer duly appointed under Section 213 of the Motor Vehicles Act, as directed hereinbefore at paragraph 28.3, and thereafter take an appropriate decision on the request made by the petitioner for change of the class of that vehicle as Educational Institution Bus, strictly in accordance with law, taking note of the law laid down in this judgment, within the time limit specified at paragraph 28.3.

The writ petition is disposed of as above. No order as to costs.

Sd/-
ANIL K. NARENDRAN
JUDGE

jv

APPENDIX

PETITIONER'S EXHIBITS:

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

RESPONDENTS' EXHIBITS:

- | | |
|---------------------------------|---|
| 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 |