



2024:KER:68346

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 10TH DAY OF SEPTEMBER 2024/19TH BHADRA, 1946

WP(C) NO. 23146 OF 2022

PETITIONERS:

- 1 M/s.GEORGE & SONS,
1ST FLOOR, SULTHAN CHAMBERS,
PARAMARA ROAD,
ERNAKULAM NORTH,
KOCHI-682018,
REPRESENTED BY MANAGING PARTNER-
M.K. MUHAMMED, AGED 59 YEARS,
S/O. KOCHUMOIDEEN,
RESIDING AT MEERA MAHAL,
MASTER COACHING BOARD ROAD,
DESHABHIMANI, KALoor,
ERNAKULAM-682017

- 2 KRISHNAKUMAR R.,
S/O. RAMAVARMA KANNANKULATHU 'VIPANJIKI',
KANNAN THRIKKOVIL, KANNAMKULANGARA,
THRIPUNITHURA, KOCHI-682301

BY ADVS.
D.KISHORE
LAKSHMI RAMADAS
MEERA GOPINATH
P.RAVINDRAN (SR.) (R-341)

RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF ROAD TRANSPORT & HIGHWAYS,
TRANSPORT BHAVAN,



W.P.(C) Nos.23146 & 28289 of 2022

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PARLIAMENT STREET,
NEW DELHI-110001.

- 2 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF TRANSPORTATION,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001
- 3 THE STATE POLICE CHIEF,
POLICE HEAD QUARTERS,
VAZHUTHACADU,
THIRUVANANTHAPURAM-695 014
- 4 THE TRANSPORT COMMISSIONER,
TRANSPORT COMMISSIONERATE,
2ND FLOOR, TRANS TOWERS, VAZHUTHACADU,
THYCADU POST, THIRUVANANTHAPURAM-695014
- 5 THE ASSISTANT MOTOR VEHICLES INSPECTOR,
SUB REGIONAL TRANSPORT OFFICE,
MATTANCHERRY, THOPPUMPADY P.O.,
KOCHI, KERALA - 682 005

BY ADVS.
SMT.MINI GOPINATH, CGC
SRI.K.S.PRENJITH KUMAR
SRI.K.M.FAIZAL, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18.03.2024, ALONG WITH WP(C).28289/2022, THE COURT ON
10.09.2024 DELIVERED THE FOLLOWING:



W.P.(C) Nos.23146 & 28289 of 2022

: 3 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 10TH DAY OF SEPTEMBER 2024/19TH BHADRA, 1946

WP(C) NO. 28289 OF 2022

PETITIONERS:

- 1 ABDUL SATHAR,
AGED 48 YEARS
S/O. IBRAHIM, PROPRIETOR,
ACCORD CAR PALACE, CITY CENTRE,
COLLEGE JUNCTION, KAYAMKULAM,
ALAPPUZHA-690502,
RESIDING AT 'SATHAR MANZIL',
ALUMKADAVU P.O.,
KARUNAGAPPALLY, KOLLAM-690573.
- 2 MUHAMMED ZIYA T.,
AGED 41 YEARS,
S/O. THAHAKUTTY. U, PROPRIETOR,
RANY'S GROUP, NEAR MSM COLLEGE,
KAYAMKULAM, ALAPPUZHA-690502,
RESIDING AT 'ZIYA MANZIL', RC CHURCH ROAD,
KAYAMKULAM, ALAPPUZHA-690502.
- 3 SREEKUMAR C.K.,
AGED 40 YEARS,
S/O. KUMAR, PROPRIETOR,
SHADOW SIJO MEDIA,
NEAR MSM COLLEGE, KAYAMKULAM,
ALAPPUZHA-690502 RESIDING AT
CHERUPPAKATTUKUDY, EDATHALA P.O.,
ALUVA, ALUVA EAST,
ERNAKULAM-683561

BY ADVS.
D.KISHORE
MEERA GOPINATH



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RESPONDENTS :

- 1 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF ROAD TRANSPORT & HIGHWAYS,
TRANSPORT BHAVAN,
PARLIAMENT STREET,
NEW DELHI-110001.

- 2 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF TRANSPORTATION GOVERNMENT
SECRETARIAT,
THIRUVANANTHAPURAM-695001.

- 3 THE TRANSPORT COMMISSIONER,
TRANSPORT COMMISSIONERATE,
2ND FLOOR, TRANS TOWERS,
VAZHUTHACADU,
THYCADU POST,
THIRUVANANTHAPURAM-695014.

- 4 THE REGIONAL TRANSPORT OFFICER,
ENFORCEMENT CONTROL ROOM,
I-FLOOR, BSNL BUILDING,
KACHERI JUNCTION,
AMBALAPUZHA,
ALAPPUZHA-688561.

BY ADVS.
SRI.B.RAMACHANDRAN, CGC
SMT.M.SHAJNA
SRI.K.M.FAIZAL, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 18.03.2024, ALONG WITH WP(C).23146/2022, THE
COURT 10.09.2024 DELIVERED THE FOLLOWING:



W.P.(C) Nos.23146 & 28289 of 2022

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CR

N. NAGARESH, J.

.....
W.P.(C) No.23146 and 28289 of 2022
.....

Dated this the 10th day of September, 2024

J U D G M E N T

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The question arising for consideration in these writ petitions is as to whether the State Government in the Departments of Police or Motor Vehicles are legally authorised to penalise owners of motor vehicles who are maintaining the “Standards of Visual Transmission of Light (VLT)” as specified under Rule 100 of the Central Motor Vehicles Rules, 1989 ('CMV Rules', for short) as amended with effect from 01.04.2021, by using “Safety Glazing”



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conforming to the standards stipulated under the Indian Standard; IS.2553 (Part 2) (First Revision); 2019.

2. In W.P.(C) No.23146/2022, the 1st petitioner is a Partnership Firm. The 1st petitioner is the sole distributor for the State of Kerala for products manufactured by M/s.Garware Hi-Tech Films Limited, Aurangabad, Maharashtra. The 2nd petitioner is a citizen who was imposed with a fine of ₹250/- as per Ext.P8 challan issued by the 5th respondent-AMVI, alleging non-compliance of the standards of VLT for the wind screen or window glasses of his vehicle (motor car) bearing registration No.KL-39M-7002.

3. The petitioners in W.P.(C) No.28289 of 2022 are aggrieved by the action of the Regional Transport Officer in issuing notices threatening cancellation of their registration on the ground that their shops are selling vehicle accessories and affixing sun films in motor vehicles causing alteration, in violation of Sections 52 and 182A(4) of the Motor Vehicles Act, 1988.



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4. Rule 100 of the CMV Rules as it stood prior to substitution effected from 01.04.2021 as per Ext.P4 Notification, was as follows:

“100.Safety glass:

(1) The windscreen and window glass of every motor vehicle including agriculture tractor fitted with cabin, construction equipment vehicle fitted with cabin and combine harvester shall be made of safety glass or safety glazing material:

Provided that in L5 category vehicles (three wheelers) and vehicles with hood and side coves, the window glass may be made of acrylic or plastic transparent sheet.

Explanation - For the purposes of this rule, -

(i) safety glass or safety glazing means the materials confirming to IS 2553 (Part 2) (Revision 1): 2019;

(ii) windscreen and window glass of motor vehicle, the inner surface of which is at an angle more than thirty degrees to longitudinal axis of the vehicles, shall be deemed to face to the front.

(2) The safety glass or safety glazing of the windscreen and rear window of every motor vehicle shall be so manufactured to provide not less than seventy percent visual transmission of light and it shall conform to Indian Standard IS 2553 (Part 2) (Revision 1): 2019 as amended from time to time.

(3) The safety glass or safety glazing used for side windows of every motor vehicle shall be so manufactured to provide not less than fifty percent visual transmission of light and it shall conform to Indian Standards IS 2553 (Part 2) (Revision 1): 2019 as amended from time to time.

(3-A) The owner of every motor vehicle shall maintain the visual transmission of light



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through safety glass or safety glazing as specified in sub-rule (2) and sub-rule (3).

(3-B) The glass of the front wind screen of a combine harvester shall be made of laminated safety glass.

(3-C) In cases where any manufacturer has complied with the provisions of this rule as they exist till the 31st March, 2021, such manufacturer may continue to do so till the 31st March, 2022, and in that situation it shall be presumed as if the provisions of clause (b) of rule 2 of the Central Motor Vehicles (Seventh Amendment) Rules, 2020, come into force, on the 1st April, 2022:

Provided that the manufacturers who comply with the provisions of this rule as they exist on the 1st April, 2021, they shall continue to do so.

(4) Notwithstanding anything contained in this rule if the Central Government is of the opinion that it is necessary and expedient to do so in public interest, it may, by order published in the Official Gazette, exempt [any motor vehicle including construction equipment vehicle] for use by any person, from the provisions of this rule.”

(18) In the case of death of a privilege purchaser after confirmation of the sale of the [group] [range], licence if any issued to him shall stand cancelled with effect from the date of his death. His legal heirs, if satisfying the conditions of eligibility specified in these rules, may apply for the privilege producing the necessary legal evidence in support of their claim and producing documents required for consideration of grant of privilege under these rules. The Commissioner of Excise, if satisfied as to their eligibility may there on restore the licence and transfer the privilege to the legal heir or heirs. Pending such transfer the [group] [range] shall be run on departmental management or shall be closed down. If the legal heirs fail to comply with the above requirements within a period of one month from the date of death of the privilege purchaser,



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the [group] [range] shall be re-sold or otherwise disposed of. In such an instance the whole annual rental paid by the deceased privilege purchaser towards the [group] [range] shall be forfeited to Government and the legal heirs shall have no claim over it:

Provided that, if the privilege of a group [range] of shops is purchased by a group [range] of individuals, and in the case of death of any of them, the other privilege purchasers/licensees will be permitted to run the shops and the privilege may be transferred in their names, if the legal heir of the deceased privilege purchaser/licensee is not willing to conduct the shops or doesn't apply in writing for the privilege before the Deputy Commissioner of Excise, of the Division, within one month from the date of death. The legal heirs of the deceased privilege purchaser/licensee willing to conduct shop, shall apply for including him/her as a licensee and the Excise Commissioner is satisfied as to his/her eligibility may transfer the privilege to the legal heir(s) along with other licensees:

Provided further that, the other privilege licensees shall be allowed to conduct the shops [for the remaining period].

5. The United Nations adopted Ext.P3 "Global Technical Regulation No.6", based on the Global Registry created on 18.11.2004. It was pursuant to Article 6 of the "Agreement Concerning Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles". Ext.P3 Regulations permitted usage of "Safety Glazing" for



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Wind Screen and Window Glasses of motor vehicles, subject to the standards and specifications stipulated thereunder. In the definitions provided under Ext.P4 Regulations, among the materials which can be permitted to be used as “Safety Glazing”, “Glazing Faced with Plastics” is also included. It is defined as “either toughened glass or laminated glass with a layer of plastic on the inner side”.

6. The Bureau of Indian Standards, New Delhi had revised the Indian Standard (IS) in conformity with the “Global Technical Regulation No.6” as per Ext.P5. IS 2553 (Part 2) (First Revision); 2019 was introduced in June, 2019. Clause 3.3 of Ext.P5 provided for various materials which can be used as “Safety Glazing” are enumerated. In Clause 3.3.6, “Glazing Faced with Plastics” is defined as “a glass pane either toughened glass or laminated glass with a layer of plastic on the inner side”. The term inner side is defined as per Clause 3.6 as “the side of glazing which is facing towards the passenger/driver compartment when the material is



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mounted in the vehicle.

7. The Government of India, Ministry of Road Transport and Highways published Ext.P4 Gazette Notification dated 20.07.2020 amending the CMV Rules, 1989. Sub-rule (1) to sub-rule (3B) were substituted in Rule 100 of CMV Rules with effect from 01.04.2021 as follows:

"(1) The windscreen and window glass of every motor vehicle including agriculture tractor fitted with cabin, construction equipment vehicle fitted with cabin and combine harvester shall be made of safety glass or safety glazing material:

Provided that in L5 category vehicles (three wheelers) and vehicles with hood and side coves, the window glass may be made of acrylic or plastic transparent sheet.

Explanation - For the purposes of this rule,

(i) safety glass or safety glazing means the materials conforming to IS 2553 (Part 2) (Revision 1): 2019;

(ii) windscreen and window glass of motor vehicle, the inner surface of which is at an angle more than thirty degrees to longitudinal axis of the vehicles, shall be deemed to face to the front.

(2) The safety glass or safety glazing of the windscreen and rear window of every motor vehicle shall be so manufactured to provide not



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less than seventy percent visual transmission of light and it shall conform to Indian Standards IS 2553 (Part 2) (Revision 1): 2019 as amended from time to time.

(3) The safety glass or safety glazing used for side windows of every motor vehicle shall be so manufactured to provide not less than fifty percent visual transmission of light and it shall conform to Indian Standards IS 2553 (Part 2) (Revision 1): 2019 as amended from time to time.

(4) The owner of every motor vehicle shall maintain the visual transmission of light through safety glass or safety glazing as specified in sub- rule (2) and sub-rule (3)."

8. Apart from the "Safety Glasses" which was permitted to be used in motor vehicles for the wind screen and window glasses, "Safety Glazing" are also permitted subject to the condition that the material used should conform to specifications in IS.2553 (Part 2) (First Revision): 2019 and subject to the limits of percentage of VLT specified in Rule.

9. The petitioners in W.P.(C) No.23146 of 2022 state that the principal supplier of the 1st petitioner, M/s.Garware Hi-Tech Films Limited is the manufacturer of "Safety Glazing" conforming to Indian Standard within the



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specifications regarding Visual Light Transmission (VLT), as stipulated in Rule 100 as amended. Exts.P6 and P6(a) are test reports dated 14.02.2022 obtained by the Company based on the tests conducted on glass panes of “toughened glass” and “laminated glass” with a layer of plastic affixed on its inner side, produced by them for such testing. Those test reports are issued by the International Centre for Automotive Technology, Gurugram, Haryana which is a division of the National Automotive Testing and R & D Infrastructure Project (NATRIP) – Implementation Society (NATIS), Government of India.

10. Ext.P6(b) is another test result issued by the Centre for Skilling and Technical Support (CSTS) functioning under the Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilisers, Government of India. The samples for “Safety Glazing” given for testing would squarely conform with the IS Standard specified. The materials strictly adhere to the percentage of VLT stipulated



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under Rule 100 of the CMV Rules.

11. The petitioner would further submit that M/s.Garware Hi-Tech Films Limited is marketing their “Safety Glazing” conforming to the specified Standard and specified VLT, with QR Code imprinted thereon. The QR Code can be used for verifying the genuineness of the products and to ascertain whether it conforms to the Indian Standard and the specified VLT. The petitioners therefore urge that the authorities under the State Government are not authorised or competent to impose penalty on the usage of “Safety Glazing” in the motor vehicles, which is conforming with the provisions contained in Rule 100 of the CMV Rules and the Indian Standard; IS.2553 (Part 2) (First Revision): 2019.

12. The petitioners in W.P.(C) No.23146 of 2022 state that when the officials under the State Government continued to impose penalty on the owners of motor vehicles alleging violations of the specified percentage of VLT provided in Rule 100 of the CMV Rules, the 1st petitioner



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submitted Exts.P7 and P7(a) representations to the Government of Kerala. The petitioners requested to issue directions to the authorities of the Police Department and of the Motor Vehicles Department, not to take any coercive steps against owners of motor vehicles maintaining the stipulated percentage of VLT using "Safety Glazing". However, the authorities under the State Government are on a penalising spree on the owners of motor vehicles for usage of "Safety Glazing".

13. The 2nd petitioner, who is owner of a motor car, was penalised as per Ext.P8 challan for using "Safety Glazing" conforming to Indian Standard though the "Safety Glazing" satisfied the specified VLT in the window glasses. Ext.P8 challan is illegal. There is no power vested with the 5th respondent to impose fine against usage of "Safety Glazing", conforming to the permitted standards and specifications. It is in these circumstances that the petitioners have approached this Court.



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14. The petitioners argue that the Hon'ble Apex Court in ***Avishek Goenka v. Union of India and another*** [(2012) 5 SCC 321] (hereinafter referred to as ***Avishek Goenka-1***) while considering the usage of "Safety Glass" in motor vehicles, held that safety glass with 70% VLT for front and rear and 50% VLT for side windows alone are permissible. No additional materials shall be pasted upon the safety glass.

15. Standard size and specification which manufacturer of a vehicle is required to adhere to while manufacturing the vehicle are exhaustively dealt with under the Rules. The Hon'ble Apex Court has held that use of tinted or black films in glass of vehicles is prohibited. It was held that competent officers of the Traffic Police or any other officer can impose fine as provided under the Motor Vehicles Act and Rules. The Apex Court also issued directions to the Home Secretary, Director General / Commissioner of Police of the respective States / Centre to ensure compliance of the



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directions in this regard with effect from 04.05.2012.

16. Subsequently, a number of applications seeking review, modifications and clarifications of the decision in ***Avishek Goenka-1*** (supra) filed before the Apex Court were disposed of by a Bench of two Judges through the decision reported in ***Avishek Goenka v. Union of India and another*** [(2012) 8 SCC 441] (hereinafter referred to as ***Avishek Goenka-2***). The Hon'ble Apex Court clarified that it is only the "Safety Glass" alone that can be used by the manufacturer of the vehicle with requisite VLT, without external aid of any kind of material, including film pasted on the safety glasses. Use of film on the glass would change the very concept and requirement of the "Safety Glass" in accordance with law. It was held that once the Supreme Court interprets a provision of law, the law so declared would be the law of the land and is binding on all. It is not open to the Court to change the provision and to adopt a different interpretation once the Supreme Court has interpreted a



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provision of law. Noticing non-compliance of the direction issued in ***Avishek Goenka-1*** (supra), the Apex Court held that the Director Generals of Police / Commissioners of Police of the respective States / Union Territories have to ensure that the directions of the Supreme Court banning use of tinted films are complied with in letter and spirit. The Apex Court warned that any non-compliance would invite contempt of court.

17. The decisions in ***Avishek Goenka-1*** and ***Avishek Goenka-2*** dealt only with the interpretation of the unamended provisions of Rule 100 of the Central Motor Vehicles Rules, 1989. Under the unamended Rules, only “Safety Glass” was permitted to be used as wind screen and window glasses. After the amendment brought with effect from 01.04.2021, apart from “Safety Glass”, usage of “Safety Glazing” is also permitted, subject to the condition that it should conform to Indian Standard; IS.2553 (Part 2) (First Revision:2019) and should be within the specified VLT



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provided under the Rules, urged the petitioners. The petitioners pointed to an observation of the Hon'ble Apex Court in ***Avishek Goenka-2*** (supra) to the effect that "it is not for this Court to change the language of the said Rules. It would primarily be a legislative function and no role herein, is to be performed by this Court".

18. Based on prohibitions imposed by the Hon'ble Apex Court while interpreting Rule 100 (as it stood unamended), a Division Bench of this Court in its order dated 10.01.2022 in SSCR No.20/2021, reiterated prohibition against the usage of any black or tinted film on wind screens and window glasses on motor vehicles. As pointed out by the petitioners, none of the decisions rendered by the Hon'ble Apex Court or by this Court had dealt with usage of "Safety Glazing" permitted through the amendment.

19. The 1st respondent-Union of India filed a counter affidavit. The 1st respondent stated that in ***Avishek Goenka-2*** (supra), the Hon'ble Apex Court had clarified that it



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is not for the court to change the language of Rule 100 of the Central Motor Vehicles Rules as it would be a function of the legislature. It is also conceded that the Central Government had amended Rule 100 of the Central Motor Vehicles Rules, 1989 as per Ext.P4 Notification with effect from 01.04.2021. The petitioners contended that where “Safety Glass” or “Safety Glazing” is used, it is mandatorily required to be manufactured to provide not less than the specified percentage of VLT in conformity with the Indian Standard; IS.2553 (Part 2) (First Revision: 2019). Therefore, only the manufactured side windows or wind screen or rear window of a motor vehicle will fall within the ambit of Rule 100 and not the film material that may be applied on the glass surface.

20. The 1st respondent pointed out that sub-rule (2) of Rule 124 of the Central Motor Vehicles Rules, 1989 insists upon every manufacturer to get prototype of the part, component or sub assembly, for which standards have been notified, approved from any agency as referred to in Rule 126



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or in case of compliance with notified Indian Standards from any laboratory duly authorised by the Bureau of Indian Standards. On the basis of such approval, every manufacturer should also certify the compliance with the provisions of the Rule, in the form prescribed.

21. The 4th respondent - Transport Commissioner, in his counter affidavit, stated that the “Safety Glass” or “Safety Glazing” for the side window of the motor vehicle is to be manufactured at the time of manufacturing of the motor vehicle. It is not permissible to paste the “Safety Glazing” material after the vehicle is manufactured and delivered. The window glasses of the vehicle can be manufactured either by “Safety Glass” or by “Safety Glazing” material. But, it is not possible to paste a Safety Gazing material on an already manufactured window glass of the vehicle. The 4th respondent stated that no vehicle provided the window glasses manufactured with “Safety Glass” or “Safety Glazing” material is being penalised. Those who



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affixs cool films or glazing materials on an already manufactured "Safety Glass" are only being proceeded against.

22. I have heard Sri. P. Ravindran, Senior Counsel assisted by Sri. D. Kishore, learned counsel for the petitioners, M/s. Mini Gopinath, K.S. Prenjith Kumar and M.Shajna, learned Central Government Counsel appearing for the 1st respondent, and Sri. K.M. Faisal, learned Government Pleader representing the State Government.

23. It is not in dispute that the Hon'ble Apex Court has only interpreted Rule 100 of the Central Motor Vehicles Rules as it stood unamended, wherein the permission was only for the usage of "Safety Glass". Apart from "Safety Glass", usage of "Safety Glazing" is also now permitted, in view of the amendment made with effect from 01.04.2021. But, the "Safety Glazing" used has to conform the Indian Standard under Ext.P5 and should be within the stipulated percentage of VLT.



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24. There cannot be any dispute with respect to the definition of “Safety Glazing” as contained in Exts.P3 and P5, that it includes “Glazing Faced with Plastics”, which is defined as “a glass pane”, either “toughened-glass” or “laminated-glass with a layer of plastic on the inner side”. Therefore, it is evident that if the wind screen or window glasses of a motor vehicle is maintained with a pane of toughened-glass or laminated-glass with a layer of plastic pasted on its inner side, conforming to the specification of IS and within the stipulated percentage of VLT, it will be a “Glazing Faced with Plastics” which is coming within the definition of “Glazing” contained in Exts.P3 and P5, which is permissible to be used in the wind screen or in the window glasses.

25. The controversy now narrows down as to whether the “Safety Glazing” need to be manufactured by the manufacturer of the vehicle itself, or whether the owners of motor vehicles can maintain the “Safety Glazing” within the



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specified limit of VLT by putting a plastic layer on the inner side of a pane of toughened-glass or laminated-glass. To answer this question, a consideration of the provisions of unamended Rule 100 and amended Rule 100 would be beneficial.

26. In sub-rule (2) of Rule 100 (unamended), it was provided that the “Safety Glass” shall be maintained in such condition that VLT shall not be beyond the specified percentage. But, sub-rules (2) and (3) of Rule 100 (amended) are imposing a prohibition against manufacturing of the “Safety Glass” or “Safety Glazing” beyond the specified VLT and not in conformity with the Indian Standard. The legislature in its wisdom has added sub-rule (4) in the amendment.

27. Sub-rule (4) of Rule 100 insists upon the owner of every motor vehicle to maintain the VLT through “Safety Glass” or through “Safety Glazing”, as specified in sub-rule (2) and sub-rule (3). It is therefore clear that the



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amendment, apart from imposing prohibition on the manufacturer, a duty is imposed on the owners of the motor vehicles to maintain the VLT of the “Safety Glass” or “Safety Glazing” as provided under sub-rules (2) and (3).

28. A harmonious consideration of sub-rules (2), (3) and (4) of Rule 100 (as amended), coupled with consideration of the definition of “Safety Glazing” especially that of “Glazing Faced with Plastics” contained in Ext.P5, no narrow interpretation can be possible that the provision in any manner prohibits the owner of any motor vehicle from pasting a layer of plastic on the inner side of a pane of toughened-glass or laminated-glass fitted by the manufacturer, subject to condition that such combination of glass pane with a layer of plastic, which forms the “Safety Glazing”, is not violating the stipulated percentage of VLT and is in conformity with the specified Indian Standard.

29. The afore view is fortified by certain factual aspects. The manufacturers of the vehicles, the



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manufactures of toughened-glass or laminated-glass and the manufacturers of the layer of plastic (film), in normal circumstances, will be different companies. The “Safety Glazing or the Glazing Faced with Plastics” is a combination of two components manufactured by two distinct manufacturers, which the manufacturer of the vehicle will be installing. Going by the provisions of sub-rule (4), there is no prohibition that such installation cannot be made by the owner. The mandate of the Rule is that it should not in any manner violate the stipulated VLT and the Indian Standard.

30. Another factual scenario to be considered is with respect to replacement of wind screen or window glasses, in case there is breakage due to any cause. The parts of the vehicle in such situation can be purchased only as spare parts from the open market. Such purchase need not necessarily be from the manufacturer of the vehicle. A combination of products, which forms the “Glazing Faced with Plastic”, as such may not be available in the market because



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the glass pane and the layer of plastic film are manufactured by different manufacturers.

31. As Rule 100(4) permits an owner to maintain the “Safety Glazing” within the specifications provided, question would be whether he can be penalised on the allegation that it is not a “Safety Glazing” manufactured as such by the manufacturer? The contention of the 4th respondent that those who affix cool films or glazing material on an already manufactured “Safety Glass” are only penalised, cannot stand the scrutiny of law. No officer checking a motor vehicle can detect as to whether the layer of plastic (film) of the inner side of the glass pane of toughened or laminated glass is pasted either by the manufacturer or by the owner. Such penalisation therefore would be unsustainable.

32. Another aspect to be noted is that when law permits somebody to do something or to enjoy something, can any authority competent to detect violations or



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contraventions can penalise him on the ground that such enjoyment was provided through any material which is not fixed by the manufacturer. If a premium car of high value is permitted to be fitted by the manufacturer with “Safety Glass” or “Safety Glazing” within the limit of VLT permissible, then it will be illegal to penalise the owner of a small car of less value, alleging that the permissible material is fixed by himself. Narrow interpretation of a provision in a manner enabling any punitive action against individuals cannot be made by the court which will jeopardise the right of the individual, if there is no actual violation or contravention. Interpretation in such cases will have to be made always in favour of the individual and not in favour of the State or its authorities.

33. Conclusions evolving based on the findings and observations hereinabove is that the State Government or its officials are not legally justified in penalising owners of any motor vehicles, the windscreens or window glasses of



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which are maintained with “Safety Glass” or “Safety Glazing”, including “Glazing Faced with Plastics” which conforms to the Indian Standard; IS 2553 (Part 2) (First Revision) : 2019 and providing not less than 70% visual transmission of light (VLT) on the windscreen and rear window and 50% visual transmission of light (VLT) on the side windows.

34. The challans issued against the petitioners are illegal and unsustainable in law. Ext.P8 in W.P.(C) No.23146 of 2022 and Exts.P1, P1(a) and P1(b) in W.P.(C) No.28289 of 2022 are quashed.

The writ petitions are disposed of as above.

Sd/-

N. NAGARESH, JUDGE

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APPENDIX OF WP(C) 23146/2022

PETITIONERS' EXHIBITS:

- Exhibit P1 TRUE COPY OF THE JUDGMENT IN AVISHEK GOENKA VS. UNION OF INDIA AND ANOTHER, REPORTED IN 2012 (2) KHC 394
- Exhibit P2 TRUE COPY OF THE SUBSEQUENT JUDGMENT IN AVISHEK GOENKA VS. UNION OF INDIA AND ANOTHER, REPORTED IN 2012 (3) KHC 412
- Exhibit P3 TRUE COPY OF THE RELEVANT EXTRACT OF THE GLOBAL TECHNICAL REGULATION NO.6 DATED 16.5.2008 ISSUED BY THE UNITED NATIONS
- Exhibit P4 TRUE COPY OF THE NOTIFICATION DATED 20.7.2020 PUBLISHED IN THE GAZETTE OF INDIA EXTRA ORDINARY DATED 20.7.2020
- Exhibit P5 TRUE COPY OF THE RELEVANT EXTRACT OF INDIAN STANDARD; IS 2553 (PART 2); 2019 ISSUED BY THE BUREAU OF INDIAN STANDARDS
- Exhibit P6 TRUE COPY OF THE TEST REPORT DATED 14.2.2022 WITH RESPECT TO THE TEST OF LAMINATED GLASS PRODUCED BY M/S. GARWARE HI-TECH FILM LTD
- Exhibit P6(A) TRUE COPY OF THE TEST REPORT DATED 14.2.2022 WITH RESPECT TO THE TEST OF TOUGHENED GLASS PRODUCED BY M/S. GARWARE HI-TECH FILM LTD
- Exhibit P6(B) TRUE COPY OF THE CONSULTANCY REPORT DATED 4.2.2022 WITH RESPECT TO GARWARE SAFETY GLAZING MATERIAL 70 PRODUCED BY M/S. GARWAR HI-TECH FILM LTD
- Exhibit P7 TRUE COPY OF THE REPRESENTATION DATED



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18.3.2022 SUBMITTED THE 1ST PETITIONER
BEFORE THE HONOURABLE MINISTER FOR
TRANSPORT, GOVERNMENT OF KERALA

Exhibit P7(A) TRUE COPY OF THE REPRESENTATION DATED
18.3.2022 SUBMITTED BY THE 1ST
PETITIONER BEFORE THE 4TH RESPONDENT

Exhibit P8 EXHIBIT P8: TRUE COPY OF THE CHALLAN
DATED 30.6.2022 ISSUED TO THE 2ND
PETITIONER BY THE 5TH RESPONDENT

Exhibit P9 TRUE COPY OF THE NEWS ITEM PUBLISHED
IN THE MATHRUBHOOMI DAILY DATED
9.6.2022

Exhibit P9(A) THE ENGLISH TRANSLATION OF EXHIBIT P9.



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APPENDIX OF WP(C) 28289/2022

PETITIONERS' EXHIBITS:

- Exhibit P1 TRUE COPY OF THE NOTICE NO. KYLM/001 DATED 12.8.2022 ISSUED BY THE 4TH RESPONDENT TO THE 1ST PETITIONER ALONG WITH THE ENGLISH TRANSLATION.
- Exhibit P1 A TRUE COPY OF THE NOTICE NO. 005 DATED 12.8.2022 ISSUED BY THE 4TH RESPONDENT TO THE 2ND PETITIONER ALONG WITH THE ENGLISH TRANSLATION.
- Exhibit P1 B TRUE COPY OF THE NOTICE NO. KYLM/002 DATED 12.8.2022 ISSUED BY THE 4TH RESPONDENT TO THE 3RD PETITIONER ALONG WITH THE ENGLISH TRANSLATION.
- Exhibit P2 TRUE COPY OF JUDGMENT IN AVISHEK GOENKA VS. UNION OF INDIA AND ANOTHER, REPORTED IN 2012 (2) KHC 394.
- Exhibit P2 A TRUE COPY OF THE SUBSEQUENT JUDGMENT IN AVISHEK GOENKA VS. UNION OF INDIA AND ANOTHER, REPORTED IN 2012 (3) KHC 412.
- Exhibit P3 TRUE COPY OF THE RELEVANT EXTRACT OF THE GLOBAL TECHNICAL REGULATION NO.6 DATED 16.5.2008 ISSUED BY THE UNITED NATIONS.
- Exhibit P4 TRUE COPY OF THE NOTIFICATION DATED 20.7.2020 PUBLISHED IN THE GAZETTE OF INDIA EXTRA ORDINARY DATED 20.7.2020.
- Exhibit P5 TRUE COPY OF THE RELEVANT EXTRACT OF INDIAN STANDARD; IS 2553 (PART 2); 2019 ISSUED BY THE BUREAU OF INDIAN STANDARDS ALONG WITH TYPED COPY.