

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN
Friday, the 7th day of October 2022 / 15th Aswina, 1944

WP(C) NO. 32680 OF 2008

PETITIONERS:

1. C.P.AJITHKUMAR AGED 41 YEARS PROPRIETOR, SUBURBAN TRAVELS, MAMANGALAM, COCHIN-24, (PRESIDENT, TRAVEL, OPERATORS ASSOCIATION OF KERALA).
2. KERALA MERCHANTS UNION (FORMERLY ERNAKULAM MERCHANTS UNION), MERCHANTS UNION BUILDING, MERCHANTS UNION ROAD, COCHIN-11, REPRESENTED BY ITS GENERAL SECRETARY.

BY ADVOCATE SRI.TOM K. THOMAS

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT, (ROADS), GOVT.SECRETARIAT, TRIVANDRUM.
2. THE SECRETARY TO GOVERNMENT, FINANCE DEPARTMENT, GOVT.SECRETARIAT, TRIVANDRUM.
3. THE CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT (ROADS), TRIVANDRUM.
4. CORPORATION OF COCHIN, REPRESENTED BY ITS SECRETARY, BOAT JETTY, ERNAKULAM.
5. GREATER COCHIN DEVELOPMENT AUTHORITY, KADAVANTHARA, ERNAKULAM, COCHIN-20, REPRESENTED BY ITS SECRETARY.
ADDITIONAL R6 & R7 IMPEADED
6. THE CHIEF ENGINEER, (NATIONAL HIGHWAYS), TRIVANDRUM-695033.
7. THE REGIONAL OFFICER, NATIONAL HIGHWAY AUTHORITY OF INDIA, OFFICE OF THE CHIEF ENGINEER, (NATIONAL HIGHWAYS), TRIVANDRUM-695033. (ADDDL. R6 AND R7 ARE IMPEADED AS PER ORDER DATED 28.11.2088 IN IA.15338/2008).
ADDITIONAL R8 & R9 IMPEADED
8. THE PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT COCHIN, NATIONAL HIGHWAY AUTHORITY OF INDIA, MANGALYA VAIDHYA MADOM, VYTILO, ERNAKULAM.
9. THE PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT PALAKKAD, NATIONAL HIGHWAY AUTHORITY OF INDIA, ARMUGHAM COLONY, CHANDRA NAGAR, PALAKKAD. (ADDL.R8 AND R9 ARE IMPEADED AS PER ORDER DATED 17.12.2008 IN I.A.16206/2008. IN WP(C) 32680/2008)
ADDITIONAL R10 IMPEADED
10. UNION OF INDIA, REP. BY SECRETARY TO GOVERNMENT, MINISTRY OF SURFACE TRANSPORT, CENTRAL SECRETARIAT, NEW DELHI (ADDL.R10 IS IMPEADED AS PER ORDER 30.03.2009 DATED IN I.A.4647/2009 IN WP(C) 32680/2008.)
ADDITIONAL R11 IMPEADED
11. CENTRE FOR CONSUMER EDUCATION, MARKET ROAD, PALAI, REPRESENTED BY ITS MANAGING TRUSTEE DEJO KAPPAN, AGED 54, S/O.LATE K.C.JOSEPH, RESIDING AT 17 A, PRESIDENCY HOMES, KALOOR, ERNAKULAM. (ADDL.R11 IS

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IMPLEADED AS PER ORDER DATED 12.10.2011 IN IA.15616/2011.)

ADDITIONAL R12 & R13 IMPLEADED

12. KERALA GOVERNMENT CONTRACTORS ASSOCIATION, HEAD OFFICE SREEKUMAR BUILDING, IRON BRIDGES.P.O., ALAPPUZHA-688001, REPRESENTED BY ITS PRESIDENT VARGHESE KANNAMPALLY

13. P.R.ASHOKUMAR, RAMAPRIYA, PARAYAKADU.P.O., CHERTHALA, ALAPPUZHA DISTRICT-688001. (ADDL.R12 AND R13 ARE IMPLEADED AS PER ORDER DATED 18.10.2011 IN I.A.15475/2011.)

ADDITIONAL R14 IMPLEADED

14. THE DISTRICT COLLECTOR, ERNAKULAM (ADDL.R14 IS SUO MOTU IMPLEADED AS PER ORDER DATED 11.10.2019 IN WPC.)

ADDITIONAL R15 SUO MOTU IMPLEADED

15. THE PROJECT DIRECTOR, NATIONAL HIGHWAY AUTHORITY OF INDIA, ERNAKULAM IS SUO MOTU IMPLEADED AS ADDL. R15 AS PER ORDER DATED 17.12.2021 IN WP(C) 32680/2008.

ADDITIONAL R16 IMPLEADED

16. THE COMMISSIONER OF POLICE, KOCHI (IS SUO MOTU IMPLEADED AS ADDL.R16 AS PER ORDER DATED 14-01-2022 IN WP(C) 32680/2008).

ADDITIONAL R17 SUO MOTU IMPLEADED

17. COCHIN SMART MISSION LIMITED, 4TH FLOOR, JLN STADIUM METRO STATION, KALOOR, KOCHI- 682017 (IS SUO MOTU IMPLEADED AS ADDITIONAL R17 AS PER ORDER DATED 01.08.2022 IN WP(C) 32680/2008.)

ADDITIONAL R18 SUO MOTU IMPLEADED

18. REGIONAL OFFICER, NHAI, THIRUVANANTHAPURAM IS SUO MOTU IMPLEADED AS ADDITIONAL R18 AS PER ORDER DATED 08/08/2022 IN WP(C) 32680/2008.

ADDITIONAL R19 IMPLEADED

19. THE TRANSPORT COMMISSIONER, TRAN SPORT COMMISSIONERATE, 2ND FLOOR, TRANS TOWER, C.V.RAMAN PILLAI ROAD, DPT, VAZHUTHACAUD, THIRUVANANTHAPURAM, KERALA- 695014 IS SUO MOTU IMPLEADED AS ADDITIONAL R19 AS PER ORDER DATED 06.10.2022 IN WP(C) 32680/2008.

BY SRI.K.V.MANOJ KUMAR, SENIOR GOVERNMENT PLEADER FOR R1 TO R3, R14 AND R16.

BY SRI..K.JANARDHANA SHENOY, STANDING COUNSEL FOR R4.

BY SRI.M.K.THANKAPPAN, ADVOCATE FOR R5.

BY SRI.SEBASTIAN THOMAS, ADVOCATE FOR R6 AND R7.

BY SRI.THOMAS ANTONY, ADVOCATE FOR R8 AND R9.

BY SRI.S.KRISHNAMOORTHY, CENTRAL GOVERNMENT COUNSEL FOR R10.

BY SRI.JOHNSON MANAYANI, ADVOCATE FOR R11.

BY SRI.JOMY GEORGE, ADVOCATE FOR R12 AND R13.

BY SMT.M.U.VIJAYALAKSHMI, STANDING COUNSEL FOR CSML, ADDL.R17.

BY SRI.BIDAN CHANDRAN, STANDING COUNSEL FOR ADDL.R18.

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BY SRI.MATHEWS K.PHILIP, STANDING COUNSEL FOR NHAI.

BY M/S.S.KRISHNA, P.DEEPAK AND VINOD BHAT, AMICUS CURIAE

BY SRI.C.S.MANU, DEPUTY SOLICITOR GENERAL OF INDIA.

This Writ Petition (Civil) having coming up for orders on 07.10.2022, and upon perusing this Court's judgment dated 18.10.2019 and order dated 06.10.2022, the Court on the same day passed the following.

p.t.o



DEVAN RAMACHANDRAN, J.

W.P. (C) Nos. 32680 of 2008 and 34310 of 2019

Dated this the 07th day of October, 2022

O R D E R

The Transport Commissioner, who is also the Road Safety Commissioner, appeared pursuant to the order of this Court dated 06.10.2022 and informed this Court of the various issues faced by the respective departments.

2. However, no excuse can ever justify lose of life on the streets and nothing can pacify the tears of the family, who go through enormous sufferings.

3. Before I proceed, I must certainly record that this Court is aware that the learned Division Bench of this Court is dealing with the issue of the violations on vehicles, from the angle of the Motor Vehicles Act and

Rules; and hence, anything that I say herein would only be complementary to the same and to supplement it.

4. After all, all of us are in together to make sure that no one loses his or her life in future, on account of a blood bath on the streets, caused by pure recklessness or carelessness.

5. As I have already recorded in the order dated 06.10.2022, it is the element of recklessness that really should grip over attention now. As the Transport Commissioner - Sri.Sreejith, has informed this Court, even though large number of violations are being booked on a daily basis, it does not seem to create a tangible result on the ground because, presumably, even the offenders continue to do so being aware or being under the preception, that the consequences are trifle.

6. The Transport Commissioner also says

that his Department has been on the job for the last several weeks, if not months, and that the fatalities from accidents have now come down 13.7%, which is targeted to be increased to 20% in due time. He added that since the Rules and best practices relating to road traffic will have to be inculcated right from the school days, the Motor Vehicles Department has taken up on themselves a project by name "Safe Campus" and is also enforcing a curriculum for students, which is now awaiting final nod from the Government.

7. It is common knowledge that initiatives and proposals are never new and every time an incident happens, such aspects are brought to life with vigour; however, only to be forgotten when a more engaging event happens.

8. However, this Court is firm in its resolve that the children who lost their lives in the accident yesterday (06.10.2022) should

never be forgotten, nor the anst of their loved ones allowed to pale into oblivion.

9. An accident of that nature should never happen again; and for this, action is paramount - not merely excuses or explanations.

10. Various members of the Bar, including the learned counsel appearing for the parties in these cases, recounted their experiences on the street, both in the city and on the highway - and all of them had stories to say of the recklessness of the drivers who manned the vehicles, including Transport and Contract Carriers.

11. The road culture that we are now used to certainly has to change and this may have to be done through a clarion call to be made by the Authorities who are vested with the powers under the statutory Scheme.

12. With this in mind, I propose to list this matter again for hearing; within which

time, the Transport Commissioner will make suggestions with respect to the manner in which our roads and streets are to be made safer.

13. That being said, however, we cannot afford to waste any further time waiting for another accident to happen - we being completely unaware when it will happen and in what manner.

14. The unmistakable caution to a driver, that recklessness on the wheel and the proclivity to violate law, will never be tolerated and will be dealt with the most stringent response in law is to be fostered and inculcated, because otherwise, nothing can change.

15. For this purpose, the citizens have to be first empowered, so they can bring the violations to the notice of the Authorities in real time. The Transport Commissioner has submitted that he will consider the

introduction of a Toll Free number for whole of the State; as also an online application. Since I am cognizant that orders relating to violations of vehicles have already been issued by the learned Division Bench, while considering any such suggestion, the same will also be kept in mind, so as to ensure a comprehensive attempt to bring in road safety as a matter of discipline, rather than of enforcement alone.

16. This Court, therefore, expects the Transport Commissioner to act in those lines and direct that the officers in his command and charge be entrusted with the task of enforcement strongly, strictly and decisively, to send a strict message to all the drivers that recklessness and carelessness will not be tolerated and that they will be accountable to law to the fullest warrant possible.

17. Necessary instructions/circulars/orders

in this regard shall be issued by the Transport Commissioner forthwith and given adequate publicity and distributed to all the officers under his command through electronic means and such other, to spur immediate action on a war basis.

18. As regards the various other suggestions recorded in this order, it shall be looked into by the Transport Commissioner and responded to by the next posting date.

Post on 28.10.2022 and the Transport Commissioner will be present for further interaction, either personally or through online.

Sd/-

**DEVAN RAMACHANDRAN
JUDGE**

SAS