

(2024) 12 KL CK 0126

High Court Of Kerala

Case No: Writ Appeal No. 2030 Of 2024

Kerala Bus Transport Association

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Dec. 20, 2024

Acts Referred:

- Constitution of India, 1950 - Article 162
- Motor Vehicles Act, 1988 - Section 110, 111
- Central Motor Vehicles Rules, 1989 - Rule 125H

Hon'ble Judges: Dr.A.K.Jayasankaran Nambiar, J; Easwaran S., J

Bench: Division Bench

Advocate: Sajeev Kumar K.Gopal, P.Santhosh Kumar

Final Decision: Dismissed

Judgement

Easwaran S., J.

1. The present intra-court appeal arises from the judgment dated 11.11.2024 in WP(C) No.37758/2023.

2. The facts, in brief, are as follows:

The first appellant is an Association of stage carriage operators. On 16.2.2023, the 2nd respondent issued a communication mandating that all private

stage carriages operating in the State of Kerala be fitted with surveillance cameras before 28.2.2023. By the said communication, the Enforcement

Regional Transport Officers within the State were also directed to ensure that surveillance cameras are functional in all private stage carriages with

effect from 1.3.2023 onwards. Following the said communication, the 2nd respondent issued a further communication to all Deputy Transport

Commissioners, Regional Transport Officers, Regional Transport Officers (Enforcement) and the Joint Regional Transport Officers directing them to

ensure that all stage carriages, when produced for the purpose of renewal of the fitness certificate, are fitted with surveillance cameras and that they

are functional. Questioning the authority of the respondents to issue the aforesaid communications, on the ground that they infringe the provisions of

Section 110 of the Motor Vehicles Act, 1988, the appellants approached the writ court with the following relief:

“Issue a writ in the nature of certiorari or such other writ, order or direction calling for the entire records leading to Exhibit P2 and Exhibit P3 and quash the same.”

3. It was primarily contended by the Appellant/Petitioner that in terms of Section 111 of the Kerala Motor Vehicles Act, the State Government though

empowered to make rules regulating the construction, equipment and maintenance of the motor vehicles and trailers with respect to all or any matters

specified in sub-Section (1) to Section 110 of the Motor Vehicles Act, equipping or fitting all motor vehicles used as transport vehicles with CCTV

based surveillance system, was first contemplated under Ext.P4 draft rules. However, when the final rules were promulgated, the said suggestion was

deleted, thereby meaning that the Central Government did not envisage fixing of surveillance cameras in the stage carriages. In the absence of the

enabling power under the Motor Vehicles Act, 1988, it is contended that the State cannot enforce these measures.

4. A counter affidavit has been filed on behalf of the respondents controverting the various averments contained in the writ petition. It was specifically

contended that the direction issued for fitment of surveillance cameras in the stage carriages is based on the minutes of the meeting presided over by

the Hon'ble Minister for Transport, held at Ernakulam on 14.2.2023 regarding the statistics of road accidents attended by the representatives of the

various stage carriage related organisations and a unanimous decision was taken. It was also contended that the fitment of surveillance cameras was

arrived at after realising the benefits of the surveillance cameras already fitted in stage carriages operating in the State and the majority of the stage

carriage operators volunteered to fix the surveillance camera for safeguarding their interests in the event of vehicle being involved in an accident.

5. The learned Single Judge, while accepting the stand taken by the respondents, as reflected in the counter affidavit, found that the impugned directives are not violative of any Rule or provisions of the Central Motor Vehicles Act and partially granted relief insofar as fitment of seat belts in the existing stage carriages. Aggrieved to the extent the challenge to the fitment of surveillance cameras in the stage carriages was rejected, the writ petitioners have preferred this intra-court appeal.
6. Heard Sri.Sajeev Kumar K. Gopal, the learned counsel appearing for the appellants and Sri. P. Santhosh Kumar, the learned Special Government Pleader (Motor Vehicles) appearing for the respondents.
7. The learned counsel appearing for the appellants, Sri. Sajeev Kumar K. Gopal, reiterated the submissions based on the averments in the memorandum of writ appeal as well as in the writ petition. According to the learned counsel, in the absence of any statutory power enabling the State to issue directives to fix surveillance cameras in the stage carriages, the impugned directives cannot be sustained. It is the specific case of the learned counsel that Rule 125H of the Central Motor Vehicles Rules, 1989 though initially envisaged fixing of CCTV surveillance cameras, as the case may be, when the final rules were published, the Central Government omitted the aforesaid requirement. The State cannot insist on fixation of surveillance cameras, unless it is authorised by the Central Motor Vehicles Rules, 1989.
8. On the other hand, the learned Special Government Pleader for Motor Vehicles Department, Sri.P.Santhosh Kumar, contended that it is for the purpose of security of the women and children and also considering the benefits of installing surveillance cameras that a unanimous decision was taken between the various stage carriage operators in the meeting held on 14.2.2023. It is further pointed out that the 2nd appellant, who is stated to be the office bearer of the 1st appellant, has already installed CCTV surveillance camera in his stage carriage and therefore, none of the contentions raised in the memorandum of appeal is sustainable.
9. We have considered the rival submissions raised across the bar.
10. The primary question to be considered by us is as to whether in the absence of any enabling provision under the Central Motor Vehicles Rules,

1989, the impugned directives are sustainable in the eyes of law? Before delving deep into this issue, we must note that certain facts remain

uncontroverted in the writ petition. A reading of paragraph No.4 of the counter affidavit, shows that the 1st respondent had specifically averred that in

the meeting presided over by the Hon'ble Minister for Transport held on 14.2.2023 regarding the statistics of road accidents attended by the

representatives of the various stage carriage related organisations, there was a unanimous decision taken for installation of CCTV cameras. The

petitioners have not chosen to controvert the said averment by filing an appropriate reply affidavit. Therefore, we are of the considered view that the

petitioners/appellants cannot resile from the decision taken by the various stakeholders and approach this Court with the writ petition.

11. That apart, the 1st respondent has specifically sworn to the affidavit by stating that it is in order to secure the safety and security purpose of the

passengers and drivers and also to reduce the fear of crime, reassure safety to the passengers and to prevent unlawful behaviour and inappropriate

conduct of the passengers that the CCTV cameras are used. We are sanguine of the fact that the State, independent of the powers conferred under

the provisions of the Motor Vehicles Act, 1988 and the Central Motor Vehicles Rules, 1989, can issue directives to maintain the law and order of the

State. It is the duty of the State to maintain and protect every citizen and to ensure their safety. The power of the State to issue directives to

safeguard the interest of the citizen is recognised under Article 162 of the Constitution of India, and is also not inconsistent with the object of the

Motor Vehicles Act.

12. It is now settled law that even in the absence of statutory rules, the State Government can issue directives in exercise of the mandate as provided

under Article 162. (See B.N. Nagarajan Vs State of Mysore [1966 KHC 738]. In such circumstances, the appellants cannot contend that unless the

said power is traceable to the specific provisions under the Central Motor Vehicles Rules, 1989, the same cannot be sustained. We cannot remain

oblivious of the laudable intent, which is sought to be achieved by the State by issuance of these directives. At the same time, we cannot shut our eyes

to the various instances that have cropped across the Nation touching upon the safety of the women passengers and also the unfortunate incidents, which have come to light while travelling in stage carriages. The impugned directives can only be viewed as a preventive measure to thwart any possible crime against women and children.

13. Viewed in the above perspective, we are of the definite view that it would be wholly fallacious on the part of the appellants to contend that the impugned directives have to fail for want of sanction under the Central Motor Vehicles Rules, 1989. Therefore, we are of the considered view that the learned Single Judge was perfectly justified in dismissing the writ petition.

We see no ground to entertain this intra-court appeal as the same lacks merits and is accordingly, dismissed.