

e-36959/17

TRANSPORT COMMISSIONERATE KERALA
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Suresh  
c

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 30TH DAY OF NOVEMBER 2016/9TH AGRAHAYANA, 1938

WP(C) No. 23035 of 2016 (D)

C3

PETITIONER:

ADD CO ROAD SHOW ADVERTISING,  
PUTHIYA ROAD, PALARIVATTOM,  
ERNAKULAM, COCHIN PIN-682 025.  
REPRESENTED BY ITS PROPRIETOR VISHAL J. PALLAN.

BY ADVS. SRI. BABU CHERUKARA  
SRI. SEVI VARGHESE  
SRI. P. A. SALIM  
SRI. PRATHEUSH. M. ANAND  
SRI. ANZAR BASHEER  
SRI. P. ANTO THOMAS

RESPONDENT(S):

1. STATE OF KERALA,  
TRANSPORT (B) DEPARTMENT  
REPRESENTED BY ITS SECRETARY,  
SECRETARIAT, THIRUVANANTHAPURAM.  
PIN-695 001.
2. STATE TRANSPORT AUTHORITY,  
THIRUVANANTHAPURAM  
PIN-695 01. REP. BY THE SECRETARY.
3. TRANSPORT COMMISSIONER,  
TRANSPORT COMMISSIONERATE,  
THIRUVANANTHAPURAM-695 001.

BY SPL GOVERNMENT PLEADER SRI P SANTHOSH KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 07-11-2016, THE COURT ON 30-11-2016 DELIVERED THE  
FOLLOWING:

K.V.

Enddt no: C3/e-36959/17/TC dated 29.7.17

Copy forwarded to all RTDS,  
RTDS & TRTDS for information and necessary action.

*[Signature]*  
Sr. Deputy Transport Commissioner  
Jae Transport Commissioner  
22/7 29/7/2017

APPENDIX

PETITIONER(S) ' EXHIBITS

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EXT P1 TRUE PHOTOGRAPH OF THE VEHICLE WITH ADVERTISEMENT OF  
"RUN KERALA RUN"

EXT P1 (A) TRUE PHOTOGRAPH OF THE VEHICLE WITH ADVERTISEMENT OF  
"14 HOURS OF NON-STOP MUSIC AWESOMENSESS" 11.

EXT P1 (B) TRUE PHOTOGRAPH OF THE VEHICLE WITH ADVERTISEMENT OF  
"MARIYADHA RAMAN".

EXT P2 TRUE COPY OF THE NOTIFICATION G.P. (P) NO.75/2015/TRAN  
DATED 21.11.2015. BY THE 1ST RESPONDENT.

RESPONDENT(S) ' EXHIBITS NIL

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/TRUE COPY/

P.A. TO JUDGE

K.V.

**P.B. SURESH KUMAR, J.**

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**W.P.(C) No.23035 of 2016**  
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**Dated this the 30<sup>th</sup> day of November, 2016**

**JUDGMENT**

The petitioner is a road show advertising establishment. They display advertisements in moving vehicles. According to them, for the convenience of displaying the advertisements, a metal frame is fixed in the vehicle and printed/written/drawn still advertisements are displayed on the frame so fixed. Rule 191 of the Kerala Motor Vehicles Rules (the Rules) framed under the Motor Vehicles Act (the Act) provides that 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. Explanation to Rule 191 dealing with electronic advertisement clarifies that for the purpose of Rule 191, electronic advertisement means an advertisement exhibited on a rolling screen, digital screen or electronic screen or advertisement exhibited on vehicles using any other devices which is not a part of the body of the vehicle. The case of the petitioner is that in so far as they are displaying printed/written/drawn still advertisements on the frames fixed on their vehicles, they are liable to pay fee only at the rate of Rs.20/- per 100 centimetre square and the authorities under the Act are charging fee for such advertisements at the rate of Rs.40/- per 100 centimetre square in the light of the provision contained in the Explanation appended to Rule 191 of the Rules that all advertisements displayed on devices which is

not a part of the body of the vehicle is liable to be treated as electronic advertisements. According to the petitioner, in so far as they are not displaying any electronic or similar advertisements, there is no reason to charge fee on their advertisements at the rate applicable to electronic advertisements. The petitioner, therefore, seeks a declaration that the advertisements displayed by them on wooden or metal frame fixed in their vehicles are not liable to be treated as electronic advertisements. Though a few other reliefs are also sought in the writ petition, the same were not pressed at the time of hearing.

2. Heard the learned counsel for the petitioner as also the learned Special Government Pleader for the State.

3. The learned counsel for the petitioner reiterated the contention that printed/written/drawn still advertisements displayed on wooden/steel frames erected on vehicles cannot be treated as electronic advertisements

merely for the reason that the same is not displayed on the body of the vehicle. Per contra, the learned Special Government Pleader, relying on the words used in the Explanation to Rule 191 viz., "advertisement exhibited on vehicles using any other devices", contended that the case of the petitioner would squarely fall under the Explanation and that therefore they are liable to pay fee at the rate of Rs.40/- per centimetre square.

4. I have considered the contentions raised by the parties. As noted above, an advertisement cannot be displayed without specific order from the competent authority and without payment of the fee proscribed for the same. The second proviso to Rule 191 of the Rules provides that if the advertisement is exhibited for six months or a period below six months, half of the fee prescribed as per Rule 191(1) shall be remitted. Sub rule (2) of Rule 191 provides that the matter of each advertisement intended to be exhibited on the vehicle shall

be approved by the State or Regional Transport Authority. Sub-rule (3) of Rule 191 further provides that after the period for which permission is sanctioned for exhibiting advertisement on vehicle, order issued for exhibiting advertisement shall be surrendered before the State Transport Authority or Regional Transport Authority concerned. Sub-rule (4) of Rule 191 further clarifies that if the matter of advertisement exhibited on the vehicle is changed before the period for which the sanction is accorded to exhibit the advertisement, fees prescribed as per sub-rule (1) of Rule 191 shall be paid for the new advertisement as well. The contentions raised by the parties have to be examined in the backdrop of the said statutory provisions. The Explanation to Rule 191 reads thus:

"For the purpose of this rule, electronic advertisement means an advertisement exhibited on a rolling screen, digital screen or electronic screen or advertisement exhibited on vehicles using any other

devices which is not a part of the body of the vehicle.”

Going by the plain words used in the said Explanation, it would appear at the first blush that the case of the petitioner would also fall under the Explanation, for, the same are advertisements displayed on vehicles using a device which is not part of the body of the vehicle. The question is as to whether the rule making authority has intended to levy double fee for such advertisements, equating the same with electronic advertisements. It is beyond doubt that advertisements displayed on a rolling screen, digital screen or electronic screen and similar will have a far better effect on the viewing public than printed/written/drawn still advertisements and it is on account of the said reason that the rules prescribe double fee for the same. As far as printed/written/drawn still advertisements displayed on iron/wooden frames erected on the vehicles are concerned, it will only have the same effect of the printed/written/drawn still advertisements



displayed on the body of the vehicles. Since the Rule has drawn a clear distinction between printed/written/drawn still advertisements and electronic advertisements, according to me, the principle *ejusdem generis* has to be applied in the matter of understanding the scope of the Explanation. When the said principle is applied, the words "advertisement exhibited on vehicles using any other devices" contained in the Explanation can only be understood to mean advertisements similar to advertisements exhibited on rolling screen, digital screen, electronic screen etc. A printed/written/drawn still advertisement displayed on an iron/wooden frame fixed on the vehicle can never be treated as similar to a rolling screen, digital screen or electronic screen advertisement. In the circumstances, according to me, the petitioner is entitled to succeed.

In the result, the writ petition is allowed and it is declared that only advertisements similar to

advertisements on a rolling screen, digital screen or electronic screen would fall within the scope of the expression 'electronic advertisement' contained in the Explanation to rule 191 of the Rules and that printed/written/drawn still advertisements displayed on wooden/iron frames erected on the vehicles are not liable to be treated as electronic advertisements for the purpose of levying fee for display of advertisements provided for under Rule 191 of the Rules.

Sd/-

**P.B. SURESH KUMAR  
JUDGE**

bpr