

GOVERNMENT OF KERALA

Transport (B) Department

NOTIFICATION

G.O.(P) No.72/2013/Tran.

Dated, Thiruvananthapuram, 16th July, 2013.

S.R.O No...../2013 .- In exercise of the powers conferred by section 96 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), the Government of Kerala hereby make the following rules further to amend the Kerala Motor Vehicles Rules 1989, the same having been previously published as Notification No. 5651/B2/2009/Tran. dated 2nd August, 2012 in the Kerala Gazette Extraordinary No. 1705 dated 13th August, 2012, as required by sub-section(1) of section 212 of the said Act, namely:-

RULES

1. *Short title and commencement.*- (1) These rules may be called the Kerala Motor Vehicles (Amendment) Rules, 2013.

(2) They shall come into force at once.

2. *Amendment of the Rules.*- In the Kerala Motor Vehicles Rules, 1989,-

(1) in rule 2,-

(i) for clause (ea), the following clause shall be substituted, namely:-

“(ea) “Fast Passenger Service” means a service which is operated by a State Transport Undertaking with limited stops on a route having a distance of not less than seventy kilometers covering at least one district or connecting two district headquarters and having a seating capacity of at least fifty excluding its staffs” ;

(ii) clause (eb) shall be omitted;

(iii) for clause (ka), the following clause shall be substituted, namely:-

“(ka) “Luxury Service” means a service which is operated by a State Transport Undertaking with air conditioned stage carriage having facilities for providing first aid, drinking water, hand rest, head rest, foot rest and push back chair convertible as half bed having a comfortable seating space for each passenger of

forty-three centimeters square measured on straight lines along and at right angles to the front of each seat having at least 40 chairs so comfortable for long journey and operating a route having a distance not less than three hundred kilometers and having advance reservation facilities at both end” ;

(iv) for clause (ua), the following clause shall be substituted, namely:-

“(ua) “Super Deluxe Service” means a service which is operated by a State Transport Undertaking as stage carriage having facilities for providing first aid, drinking water, hand rest, head rest, foot rest and push back chair convertible as half bed having a comfortable seating space for each passenger of forty-three centimeters square measured on straight lines along and at right angles to the front of each seat having at least 40 chairs so comfortable for long journey and operating a route having a distance not less than three hundred kilometers”;

(v) for clause (ub), the following clause shall be substituted, namely:-

“(ub) “Super Express Service” means a service which is operated by a State Transport Undertaking having cushion seat, head rest, hand rest, foot rest and operating a route having a distance of not less than two hundred kilometers and having provision for first aid and advance reservation facilities at both end”;

(vi) for clause (uc), the following clause shall be substituted, namely:-

“(uc) “Super Fast Service” means a service which is operated by a State Transport Undertaking having cushion seat, head rest, hand rest, foot rest and operating a route having a distance of not less than one hundred and fifty kilometers and having provision for first aid and advance reservation facilities at both end” ;

(2) In sub - rule (1) of rule 267,-

(i) after the words “every vehicle” the words “except luxury service and super class service” shall be inserted;

(ii) after the proviso, the following proviso shall be inserted, namely:-

“Provided further that the driver of those stage carriages operating as Luxury Service and Super Class Service shall stop the vehicle between 10.00 p.m and 06.00 a.m at such stopping places when so required by any passenger who intends to alight ” ;

(iii) after sub-rule (1), the following Explanation shall be inserted, namely:-

“Explanation:- For the purpose of this rule, “Super Class Service” means
a Super Deluxe Service, Super Express Service and Super Fast Service”.

By order of the Governor,
Dr.V.M.GOPALA MENON
Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

In Writ Appeal No. 1591/1997 and other connected cases, the Hon'ble High Court of Kerala observed that the term “Fleet Owner” defined in the Kerala Motor Vehicles Rules, 1989 is arbitrary and violative of Article 14 of the Constitution of India. The Court also observed that the Government have not fixed any guidelines in the form of rules prescribing the requirements of the vehicles to be used as Fast Passenger, Super Fast, Super Express, Super Deluxe, etc. and therefore recommended the Government to fix the standard to be maintained by the vehicles to be granted permit for plying as Fast Passenger, Super Fast, Super Express, Super Deluxe, etc.

In *State of Kerala vs Sebastian* (1995 (1) KLT 421), the Hon'ble High Court had directed all the Regional Transport Authorities and the State Transport Authority not to grant permit for Fast Passenger, Super Fast, Super Express, Super Deluxe etc. until the Government lay down the standard and requirements of the vehicles which can be put in use in such service. In the above case, the Hon'ble

High Court held that the convenience of the students was also to be taken into consideration while granting permits. If it was allowed to convert ordinary service permit as Fast Passenger or other high class service, the number of stops will be reduced, the fare will be higher, the students who are entitled for concession will be deprived of the benefit. Moreover, the comfort and convenience of the travelling public have to be considered. For implementing the above judgment and satisfying the above requirements, Government have decided to make necessary amendments in the Kerala Motor Vehicles Rules, 1989. Government have considered the objections and suggestions received against the preliminary notification and have granted an opportunity of being personally heard to the objectors before deciding to finalise the rules.

The notification is intended to achieve the above object.