

*Extracts from Judgment of Honourable Chief Justice,  
High Court of Kerala*

*Writ Petition 1*

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 23RD DAY OF NOVEMBER 2020 / 2ND AGRAHAYANA, 1942

WP(C).No.20500 OF 2020(S)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-11-2020, ALONG WITH WP(C). NO. 20768/2020(S), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

*Writ Petition 2*

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 23RD DAY OF NOVEMBER 2020 / 2ND AGRAHAYANA, 1942

WP(C).No.20768 OF 2020(S)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-11-2020, ALONG WITH WP(C). NO.20500/2020(S), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

*// Relevant Extracts for the VLTD industry from the Judgment of Honourable High Court of Kerala*

**JUDGMENT**

Dated this the 23<sup>rd</sup> day of November, 2020

**S. Manikumar, CJ**

1.W.P.(C) No.20500 of 2020 is filed for the following reliefs:

- i. To issue writ, order or direction in the nature of mandamus or any other appropriate writ directing the respondents to implement strictly and in its full spirit, the provisions of Exhibit-P3 notification dated 28.11.2019 with regard to the fitting of Vehicle Tracking System and emergency buttons in public transport vehicles, in the interest of justice.
- ii. To direct the 3<sup>rd</sup> respondent – The Transport Commissioner, Trivandrum, or its subordinate officers to have strict checking in the matter with regard to the

implementation of Exhibit-P3 notification dated 28.11.2019 and not to grant any exemption to any category of vehicle, as it would go against the scheme and objective of the scheme.

2. W.P.(C) No.20768 of 2020 is filed for the following reliefs:

i. Issue a writ of mandamus or other appropriate writ or order commanding respondents 2, 3 and 4 viz., State of Kerala represented by the Principal Secretary to the Government, the Transport Commissioner, and the Regional Transport Commissioner, Thiruvananthapuram, to strictly enforce Section 136A of Motor Vehicles Act, 1988 and Rule 151A of Kerala Motor Vehicles Rules, 1989 to be equipped and fitted with Vehicle Location Tracking Device in all motor vehicles.

ii. Direct respondents 2 to 4 not to allow any vehicles within the State, which is not equipped and fitted with vehicle location tracking devices.

iii. Direct the respondents not to issue or renew fitness certificates to any vehicles in the State, which are not equipped or fitted with VLT devices and emergency buttons.

3. As both the writ petitions are filed for strict implementation of Vehicle Location Tracking Devices (VLTs) in the motor vehicles, they are taken up together and disposed of by a common judgment

36. By notification dated 25.09.2018 issued by the Ministry of Road Transport and Highways [Exhibit-P2 in W.P.(C) No.20500/2020], Central Government have exempted installation of vehicle location tracking device and emergency buttons till January, 2019, in all public services vehicles registered upto 31.12.2018. The Central Government has also empowered the State Governments/Union Territories, to specify the date for compliance of the requirements.

40. Reading of the above, makes it clear that considering the representation of various associations of the Motor Vehicle Industry and the financial crisis of the Kerala State Transport Corporation, Government of Kerala have decided to extend the time for compliance of installing VLTs upto 31.12.2020, and that there is no exemption, as submitted by the learned counsel for the petitioner in W.P.(C) No.20768/2020.

45. .... though the Central Government have exempted goods vehicles from the installation of Vehicle Location Tracking Devices, State of Kerala, in exercise of the legislative powers conferred under Section 110(3) of the Act, have introduced Rule 151A of the Motor Vehicles Rules, 1989, making it mandatory that goods vehicles also have to install the VLTs, with effect from 01.04.2018, and that, the Secretary to the Government, Transport Department, Government of Kerala, has issued orders periodically, extending the time for compliance, for the installation of VLTs in the vehicles, mentioned in G.O.(P) No.41/2019/Tran dated 28.11.2019, and even appointed nodal officers for implementing installation of VLTs. If that be so, we are unable to understand, as to how the Secretary to the Government, Transport Department, Thiruvananthapuram, in the statement dated

12.11.2020, could submit that enforcement of Section 136A of the Motor Vehicles Act, 1988 is not possible for the time being.

46. It is the contention of the Government that pursuant to the introduction of Rule 151A of the Kerala Motor Vehicles Rules, 1989, with effect from 1.4.2018, installation of VLTDs in educational institution buses and vehicles carrying school children is over.

47. Kerala State Road Transport Corporation,..... has also stated that process for purchasing VLTDs has been initiated, tender has been invited on 28.09.2020 for purchasing the 1<sup>st</sup> phase of devices, and it is in the final stage. According to the KSRTC, there are 6200 buses and they have incurred huge expenses. Though COVID-19 pandemic has been cited as one of the reasons, besides payment of salary to the employees, expenditure incurred in maintenance etc., the same cannot be accepted for the reason, from 1.4.2018, Rule 151A of the Kerala Motor Vehicles Rules, 1989 is in force.

48. In fact restrictions due to COVID-19 pandemic started only in March 2020. Income and expenditure of the Kerala Road Transport Corporation is not a new feature, insofar as the Corporation is concerned. When the State Legislature, in exercise of the powers under Section 110(3) of the Motor Vehicles Act, 1988, has framed Rule 151A in the rules, and periodically issued orders, including Circular No.19/2019 dated 1.1.2020, appointing Nodal Officers, for monitoring the implementation of installation of VLTDs and Emergency buttons, the same has to be done effectively, towards enforcement of the rule. Contention of the petitioner that action of the Government of Kerala, in extending the time for implementation of installation of VLTDs is arbitrary and mala fide cannot be accepted.

50. Having regard to the object of framing Rule 151A of the Kerala Motor Vehicles Rules, 1989, safety of the commuters, in particular, women and children, and taking note of the periodical orders issued by the Government of Kerala, a duty is cast upon them to implement the rule and the notifications, without any further delay. As regards enforcement of the rules, notifications and circular, the difficulty expressed by the Government with respect to the vehicles coming from other States, exempting the above said vehicles, is just and reasonable.

**In the light of the above discussion, we dispose of the Writ Petitions directing the Secretary to the Government, Transport Department, State of Kerala, Thiruvananthapuram, respondent No.2 in W.P.(C) No.20768 of 2020, to effectively implement Rule 151A of the Kerala Motor Vehicles Rules, 1989, notifications, and Circular No.19/2019, with effect from 1.1.2021.**