



GOVERNMENT OF KERALA

No.12918/M1/95/PW&T.
Public Wdrks & Transport (M) Department,
Thiruvananthapuram, 14.7.95.

From

The Commissioner and Secretary.

To

The Transport Commissioner,
Thiruvananthapuram.

(in name cover)

Sir,

Sub: M.Vs - Non-Transport Vehicles having no
valid Certificate of Registration - Compounding
of offences - reg.

Ref: 1. Government letter of even no. dated 20.6.95.
2. Your letter No. C1/7754/TC/95 dated 23.6.95.

--

Several complaints are being received by Government against levy of Rs.2000/- as penalty for delay in re-registration of vehicles in Regional Transport Offices. As per the letter cited you have reported that the above amount is being compounded in view of Sec. 192(1) of the Motor Vehicles Act (Amendment Act 1994).

Government have examined the question whether Officers of the Motor Vehicles Department are empowered to impose the punishment under sub-section (1) of sec. 192 of the Motor Vehicles Act, 1988 (As amended by the Motor Vehicles (Amendment) Act 1994). Sec. 192(1) of the M.V. Act is extracted below:

(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provision of Sec 39 shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees for a second or subsequent offence with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both;

Provided that the Court may, for reasons to be recorded, impose a lesser punishment."

On a plain reading itself it reveals that the said sub-section says of punishment. It provides that the offender shall be punishable with imprisonment for a second or subsequent offence. As the Officers of the Motor Vehicles department have no power to order imprisonment of a person, the powers under the said sub-section can be exercised only by a Court of law. Further more the proviso to the said sub-section makes it crystal clear that the powers under the said sub-section can only be exercisable by a Court of law. It is therefore informed that the officers or authorities of the Motor Vehicles department have no authority at all to exercise the powers conferred under sub-section (1) of Section 192 of the M.Vs. Act.

It is also pointed out that the provision of Section 192 (1) of the Act will not be attracted in a case where there is only delay in making the application for renewal of the registration certificate. In such cases, the registering authority can only impose the fine as specified in sub-section (ii) read with sub-section (13) of sec. 41 of the Act. Otherwise, action under Section 177 can be taken against the offender. Sub-section (1) of Section 192 is applicable only in a case where a person contravenes the provisions of S.39 of the Act. It is further pointed out that the officer or authorities of the Motor Vehicles Department are only empowered to compound the offences specified in Section 200 of the Act (which include offences under Sections 177 and 192) for such amount as prescribed by the Government in notification (SRG No.114/89) issued under the said section.

I am therefore to request you to issue immediate instructions in the matter to all concerned ~~and~~ and to report the action taken to Government.

Yours faithfully,

N. CHANDRASEKHARAN NAIR
COMMISSIONER AND SECRETARY
(TRANSPORT)

Approved for issue


Section Officer.