

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WA.No. 1741 of 2015 (N)

AGAINST THE JUDGMENT IN W.P.(C).NO.10333 OF 2013, DATED 09-10-2014

APPELLANT(S)/PETITIONER IN W.P.(C).NO.10333/2013 :

**M.K.MOHAMMED, AGED 51 YEARS,
S/O.KOCHUMEETHIAN, MANAGING PARTNER, M/S.GEORGE & SONS,
MEERA MAHAL, MASTER COACHING BOARD, KALOOR,
COCHIN-17.**

**BY ADVS.SRI.PULIKKOOL ABUBACKER
SMT.SARITHA DAVID CHUNKATH
SMT.P.AANEESHA
SMT.N.A.NADEERA**

RESPONDENT(S)/RESPONDENTS IN W.P(C).NO.10333/2013 :

**1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA,
NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI-110 001.**

**2. SECRETARY,
MINISTRY OF ROAD- TRANSPORT & HIGH WAY,
TRANSPORT BHAVAN, NO.1 PARLIAMENT STREET,
NEW-DELHI-110 001.**

**3. STATE OF KERALA,
REPRESENTED BY SECRETARY, HOME DEPARTMENT,
THIRUVANANTHAPURAM-695 001.**

**R1 & R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R3 BY SR.GOVERNMENT PLEADER SRI.P.IDAVIS**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.A.No.1741 of 2015

Dated this the 8th day of September 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the appellant.

2. This writ appeal has been filed against the judgment dated 09/10/2014 in W.P.C.No.10333 of 2013 passed by the learned Single Judge, by which judgment the writ petition filed by the appellant has been dismissed. The appellant has filed the writ petition praying for the following reliefs:

“i) to issue a writ of certiorari quashing Rule 100(1) and 100(2) of the Central Motor Vehicles Rules, 1989 the same being violative of Article 14, 19 and 21 of the Constitution of India.

ii) to permit the petitioners herein, his employees and men under him to conduct their business and earn a livelihood in the absence of rules forbidding them on doing so.

lii) to declare that the use of sun films will not be considered as altering the structure of safety glass as made mention under Rule 100.”

2. The basic challenge in the writ petition was to Rule 100 (1) and 100(2) of the Central Motor Vehicles Rules, 1989. The learned Single Judge, noticing the judgment of the Apex Court in **Avishek Goenka v. Union of India** [2012(2) KLT 577 (SC)] refused to entertain the writ petition. The Apex Court in the said judgment has already negatived the challenge to Rule 100. The learned counsel for the appellant submits that several aspects including the privacy aspect has not been considered by the Apex Court and rule was upheld only as a safety measure. We are of the view that the rule, having been upheld by the Supreme court, it is not open for the petitioner to challenge the said rule citing certain additional submissions.

Since the Apex Court has upheld the rule, which cannot be allowed to be challenged in the writ petition, we do not find any error in the judgment of the learned Single Judge refusing to interfere in the writ petition. Hence this writ appeal is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

