



GOVERNMENT OF KERALA

Home (G) Department

CIRCULAR

No. 89584/G3/08/Home.

Dated, Thiruvananthapuram, 5th January, 2009.

*Sub:*—Confiscated/seized vehicles lying idle in Police Stations, Excise Offices, Regional Transport Offices, Court complexes etc.—  
Disposing of—Interim directions of the Hon'ble Court in  
MACA 1458/2008—Instructions issued—Reg.

The Hon'ble High Court in its order dated 2-12-2008 in MACA No. 1458/2008 had observed that it has come to their notice that a motorbike bearing registration No. KRV/6812 is lying in the City Traffic Police Station, Thiruvananthapuram for the last eight years. The vehicle stated to be involved in a road accident was recovered by the police in Crime No. 516 of 2000. Even though FIR was registered, the case was closed by the court on the basis of the final report filed by the police. However, the motorbike is not claimed by anybody and is lying in the police station for the last eight years. It will now be only a junk or of virtually scrap value. This is only one of the hundreds of vehicles lying in large number of Police Stations, Excise Offices, Offices of the RTO, Collectorates and even in Court campuses.

The Hon'ble Court has observed that automobiles are essentially made of steel which get rusted and destroyed when exposed to sun and rain for long period. Vehicles are mainly seized by various Government agencies like State Excise, Forest Department, Motor Vehicles Department etc., for offences arising under various statutes and for non-payment of Motor Vehicles Tax. Confiscation proceedings are protracted in nature and it will take several years for final disposal of the matter at various stages before the statutory authorities and at last in the court. In the meantime, seized vehicles will become complete scrap in the custody of the department, In many cases, the vehicles seized are allowed to

be used by the offender during pendency of confiscation proceedings. Ultimately he surrenders the vehicle in scrap condition and gets release of the security furnished during the pendency of the proceedings. In other words, seizure of vehicle invariably does not achieve any useful purpose. The main object of confiscation of the offending vehicle is to prevent the offender from repeating the offence. This object cannot be achieved so long as the offender has the capacity to acquire another vehicle. Since confiscation proceedings take time, the vehicle liable to be confiscated should be released only on deposit of its value so that its value could be recovered treating confiscation as notional or otherwise the offender will surrender the vehicle in scrap condition and take back the security furnished by him. This could be achieved by making the offender deposit the cost as on the date of seizure for release of vehicle. If seized vehicles are not released, such vehicles should not be allowed to be left to be destroyed in the campus of Government offices. A reasonable time, say two weeks, should be granted to the registered owner to get the vehicle released on deposit of its value, failing which such vehicles should be sold in public auction and its value only should be the subject matter of litigation. The position should not be different for vehicles attached for recovery of arrears of tax or for recovery of loan due to institutions etc. It is also worthwhile to mention about the abandoned and unused vehicles lying undisposed in various Government Offices. Delay in the sale of such vehicles will only lead to loss to the State. The Hon'ble Court, therefore felt that all such unused and abandoned vehicles also should be sold without delay.

So the Hon'ble Court directed the Chief Secretary to Government to convene a meeting of the heads of the departments, namely, Revenue, Excise, Forest, Police, Motor Vehicles etc. and take steps for making provision for disposal of all vehicles as above without allowing such vehicles to be left in Government custody for more than a month at the maximum. Pending amendment of the statute and rules, the Hon'ble Court directed the Chief Secretary to give instruction to the heads of the department to finalise all departmental cases and dispose of all seized/recovered vehicles lying in the custody of the Government within a period of three months from the date of the order of the Hon'ble Court ie. from 2-12-2008. The Hon'ble Court made it clear that it will be the duty of the Chief Secretary to inform the heads of the departments of this direction who will in turn communicate the direction to the lower authorities for compliance, failing which contempt action will be initiated against the officer concerned.

In the circumstances, all Heads of Departments are hereby directed to instruct all the authorities under their control to finalise all departmental cases and dispose of all seized/recovered vehicles lying under their custody on or before 1-3-2009. Contempt action may be initiated against those who fail to comply with the above direction within the time limit stipulated.

P. J. THOMAS,  
*Chief Secretary.*

To

All Departments in the Secretariat including Law and Finance Department  
✓ All Heads of Departments  
The Accountant General (A&E), Kerala, Thiruvananthapuram  
The Principal Accountant General (Audit), Kerala, Thiruvananthapuram  
The Advocate General, Ernakulam  
The Information and Public Relations Department  
File /Stock file

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