

KARNATAKA LOKAYUKTA

Compt/Uplok/BD/2802/2013/ARLO-2

M.S.Building,
Dr. B.R.Ambedkar Veedhi,
Bangalore, dated 6.1.2017.**REPORT UNDER SECTION 12(1) OF
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: To take necessary action about illegal carrying the passengers by private buses in Karnataka State -reg.

An investigation was taken up under section 9 of the Karnataka Lokayukta Act, in the complaint filed by Shri.Shamanna, to be the Chairman of Karnataka Press Trust Tumkur (hereinafter referred to as complainant), an investigation was taken up against Shri.C.B.Kuberappa, Regional Transport Officer, Tumkur, (hereinafter referred to as 'respondent).

2. One Shamanna, claiming to be the Chairman of Karnataka Press Trust, Tumkur has filed a complaint which is registered as Compt/Uplok/BD-2802/2013 inter-alia alleging that the State Transport Authorities have indulged in issuing transport permits as well as driving licences in contravention of the provisions of the Motor Vehicle Act and the Rules made there under, as result of such illegal permission and driving licences, there were several accidents causing death of several persons.

3. Complainant alleges that, in Dharmapuri, a private bus, with a contract permit, travelling from Tiptur met with an accident resulting in death of 17 persons they said bus

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was used for transportation of passenger without road permit. On 13-12-2011, on 12-06-2000, a bus bearing No.TN 28 Y 7011 met with an accident causing death of 28 persons, the said bus did not had valid permit to transport the passengers. Complainant has referred to several examples of accidents caused by the private transport vehicles, transporting passengers without valid permit or in contravention of the permit. He has also enclosed number of FIRs registered for violation of the provisions of Motor Vehicle Act and for the offences punishable under the provisions of Indian Penal Code.

4. It is alleged that, in this regard he had made several representations to the Regional Transport Authority, State Transport Authority and also to the concerned Ministry. However, the Authorities, instead of taking action against the vehicle transporting passengers without permit or in violation have involved themselves in granting permit to the vehicles which are not eligible for such permits, further the RTO's are keeping quite against illegal transporter. This has resulted in large scale of corruption and mal administration in the Transport Department. The Transport Authorities the and the private transport operators are hand-in-glove and are not only causing loss to the exchequer of the state but also causing several accidents resulting death of innocent public.

5. As against the allegation made in the complaint, comments were called for from the Regional Transport Authority, Tumkur. Though the said allegations were initially, denied by the Transport Authorities, however, during

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the course of the enquiry, it is noticed that, there were several instances of violation of permits, and provisions of law by the transport operators, some case it is found that buses is involved in several cases of repeated violations.

6. The statement filed by complainant revealed that, the buses bearing same numbers are found repeatedly violating the provisions of the Motor Vehicle Act and Rules made there under. Even after the penalty imposed by the competent courts, same buses are again and again involved in fresh violation. Such buses have repeatedly violated the provisions of Motor Vehicle Act and the permit conditions, though the number of times the criminal court has imposed penalty, since the quantum of penalty levied by the court being meagre at ₹ 2,000/-, the bus operators after paying the penalty have indulged in repeated violation, such operators have no fear of violation, but openly run the buses, this has been routine and has become possible only because of the corruption and carelessness on the part of the Authorities in not taking action.

7. Complainant and the state transport authorities submitted that, the contract carriage buses have no authority to pick up the passengers and transport them but by using contract carriage permits the buses are illegally operating as if they are the stage carriage buses, on such route which are profitable, by picking up the passenger's en-route to town and cities. In addition to this, they have also converted the passenger transport buses into partial goods transport vehicle by carrying huge quantity of luggage over the top of the bus

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in violation of the permit conditions. On account of such illegal transportation there is no security and safety for the passengers, as a result, frequent accidents are caused resulting in loss of life and property of the passengers. Innocent passengers are induced to undertake journey by such private buses without knowing risk of life and illegality in transportation.

8. On account of violation of provisions of the M.V.Act and driving without proper driving licences the injured passengers and the dependents of the victim of accidents are often denied of adequate or no compensation. If, this illegality is not stopped at the earliest, it not only causes loss to the government exchequer but it may put passenger's life into risk. KSRTC or its sister concerns are the state owned passenger transport corporations, these corporations established and are operating for the benefit of general public as social responsibility. These corporations with Moto of connectivity transport the passengers even to the remote villages without expecting any profit. However on account of operation of these illegal private buses on most profitable routes is consistently causing huge loss.

9. Complainant in this regard has relied on the provisions of Motor Vehicle Act to point to the definition of the contract carriage as defined U/S 2(7).

10. *“Contract carriage” means a motor vehicle which carries a passenger or passengers for hire or reward and*

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is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum,-

(a) On a time basis, whether or not with reference to any route or distance; or

(b) From one point to another;

11. In other case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes

(i) Maxi-cab and,

(ii) Motor cab notwithstanding that separate fares are charged for its passengers,

By referring the provisions of section 2(7) of the M.V.Act, stated that, the contract carriage or tourist permit passenger vehicles are not permitted to use them as stage carriage buses, still with contract carriage permit or tourist permit, the private buses are using the same as stage carriage.

12. KSRTC as well as its sister corporation also filed their statements inter alia, alleging that due to the operation of private buses as stage carriage on National Highway, which is prohibited to be used by private buses as stage carriage has resulted in causing huge loss to the KSRTC and other road transport corporations. Further the private buses are using

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contract carriage permit to run as stage carriage. This is mainly on most profitable roads. These are done openly by opening private bus stands, booking counters across the state.

13. The KSRTC authorities submitted that, there is a legal prohibition to carry individual passengers by issuing tickets, to such passengers, even then the contract carriage bus operators have opened the booking offices at various places to book individual tickets for different destination without there being any contract and without using the bus as a whole in terms of the provisions of the Motor Vehicle Act.

14. Section 69 of the Motor Vehicle Act provides for filling application for Permits. Section 70 and Section 74 deals with grant of Stage Carriage Permit and Contract Carriage Permit, Prima facie from the provisions of the Motor Vehicle Act and rules made there under, it appears that there is a clear violation of law by the private Operators and the Contract Carriage Operators stage Carriage. The conditions stipulated in the form for issue contract carriage permit itself in Form No.KMV 42 it bars the use the Contract Carriage as a State Carriage or a goods vehicle. Despite of such clear violation several such buses are operating in violation of the conditions of the permit.

15. Rule 72 of the Karnataka Motor Vehicle Rules also prohibit use of passenger Transport Carriage or Contract Carriage (passenger) from transporting goods except the personal luggage of the passenger.

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16. The Apex court in a judgment reported in AIR 2004 SC 2413 considering the rules has observed that,

17. “ All the passengers travelling in the contract carriage must have a common destination it could not be stretched beyond that, to hold that the purpose of going to a common destination must also be the same. The Supreme Court on interpretation of Section 88(8) of the Motor Vehicle Act has observed “A stage carriage is intended to meet the requirements of the general travelling public. But the contract carriages are for those who want to hire the vehicle collectively or individually for a group or party for their transport from place to place and the whole vehicle is at their disposal. This is also made clear in Section 88(8) of the Act corresponding to section 63(6) of the Old Act wherein it is provided;

18. It is further observed, “the contract carriage is engaged for the whole of the journey between two points for carriage of a person or persons hiring it but it has not the right to pick up other passengers on route. The stage carriage on the other hand, runs between two points irrespective of any prior contract and it is boarded by passengers en route who pay the fare for distance they propose to travel”

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19. The difference between the stage carriage and contract carriage is, stage carriage is intended to meet the requirement of general travelling public on an authorised route where as the contract carriage is for a group of individual on hire of whole bus and not individual seats for different destination. Contract carriage the world itself explains the purpose, it is on contract, no question of booking tickets or opening the ticket booking counters or bus stands at different places, the destiny is not chosen by the bus operators but by the contracting party. But quite contrary to the same openly to individual tickets booked for different destination including online booking. Though these aspects very well is within knowledge of every officers of transport department, though such authority is conferred with power taken action and to prevent the illegality but reasons best know to them, neither the police nor the transport department is either service of taking any action. This only gives an impression that; the authorities are colluding with such private bus operators.

20. The contract carriage and tourist permit holders are operating there services illegally and violating the several conditions of the permit, as stage carriage services, thereby causing huge financial loss of revenue to all 4STU of Karnataka state and one department lapses has caused loss to the another state owned state-transport corporation. That is clear violation of M.V.Act and rules made their under.

21. Amongst several private buses running in violation of the permit condition, some of such private buses operating

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frequently in violation of provisions of M.V. Act and rules are mentioned here in below.

Sl. No.	From	To	Vehicle No.	Name of vehicle	Time
1	Chitradurga	Shikaripura	TN-6953	Thippeswamy Bus	10.35
2	Siregere	Chitradurga	KA-16 B 1644	TATA AC	9.35
3	Santhebennur	Chitradurga	KA-07 6628	Thippeswamy Bus	15.00
4	Kalasipalya	Malavalli	KA-02 4188	S.B.T.Travels	11.10
5	Kalasipalya	Tumkur	KA 16 A 5963	SRE Travels	8.35
6	Dabaspete	Tumkur	KA 07 3812	Vinayak Travels	9.50
7	Davanagere	Hubli	KA 27 7300	Samrat Travels	6.30
8	Mysore	Hosadurga	KA 11C 7777	Double service	7.20
9	Kolar	Malur	KA 07 7224	SLV Travels	6.00
10	Javagal	Arasikere	KA 18 1298	Venkateshwara Road Lines	18.45

22. It is to the common knowledge that, openly several buses, maxi cabs minibuses etc., are engaged in transportation passengers either without permit or in violation of the conditions of the permit. The sight of private vehicle engaged in passenger transportation is seen at every small town to big cities like Bangalore still the authorities for the reasons known to them have not acted against such violation. It is alleged that there is illegal nexes between the authorities and such operators as a result such transporter are openly in violation of law are operating their vehicles every were.

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23. The Moto of these private operators is not only to make huge profits but also as a sources for converting black money into white by improper ways. The operation of contract carriage and tourist permit vehicles as stage carriage is not only making the government institutions like KSRTC weak and pushing towards sudden death situation. There are plenty private websites in the net which will enable a passenger to book tickets on line for the tourist vehicles as well as contract carriages and one such websites "RED BUS.IN" has openly claimed the booking of sets worth million transactions for every financial year.

24. There are private sleeper coaches in the state operating on the basis of tourist and contract carriage permits. for examples the buses shown as below:-

Sl. No.	Name of travelers	Name of vehicle	From	To	Time
1	VRL	KA-25C 7752	Hubli	Bangalore	5.35
2	SRS	KA 42 A 9095	Hubli	Bangalore	6.50
3	Durga Shakthi Travels	KA 20 C 8709	Kundapur	Bangalore	5.50
4	Seabird	KA 02 AA 9241	Karwar	Bangalore	6.30
5	SRE	KA 16 B 4478	Davanagere	Bangalore	14.10
6	GEEP	NL 01 B 0891	Bombay	Bangalore	14.36
7	Golden Holiday	KA 01 D 9162	Bangalore	Tirupati	8.55
8	Ashwini Travels	KA 42 4269	Bangalore	Belgaum	23.15

25. Private buses pick up and drop locations in Bangalore shown as below:

Sl. No.	Pick-up point names.
1	Anand Rao Circle
2	Gandhi nagar
3	Kalaspalyam
4	Majestic Tank bund Road
5	Koramangala
6	Silk Board

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7	BTM Layout
8	Madiwala
9	Eastern Circle/ Jayanagar 9 th Block
10	Jayanagar 4 th Block
	Some other places regularly

26. The above said travels and remaining thousands of private travellers operating the buses by violating the Motor Vehicle Act 1988. It is alleged by the state owned transport corporation that, as a result of illegal operation of private transport buses the state transport corporation has been put to huge loss. In this regard that MD's of KSRTC, NERTC, SWRTC and BMTC, have not only brought the notice of the state transport department, but have also written letter apprising that due to illegal operation private buses – the state road transport corporation has been put to loss.

27. The BDA in its zonal regulation has declared the Gandhinagar, Majestic and surrounding area as commercial area. The private operators holding contract carriages permits are operating their services clandestinely as stage carriages from this place, creating traffic jams, particularly during peak hours (morning and evening). To pots of land have been procured by SRS travels and VRL travels and converted as bus stands near Anand rao circle in Gandhinagar. The half of these road are occupied by private buses to pick up and set down the passengers and also to load cargo and even for ideal parking, thereby defeating the very purpose of converting these road one way traffic. Due to this effect KSRTC has resorted to shifting its operations to

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other bus stations namely Mysore road satellite bus station, Shanthinagar Bus Station and Penya Bus Station etc.,

28. Some of the statistics collected by KSRTC that during the year 2013-14 KSRTC has incurred a loss to the tune of Rs.580.20 Cores. Similarly in the same period NWKRTC, NEKRTC have incurred a loss of Rs. 252.93 cores and 164.01 cores respectively because of clandestine operation by the private operators in the nationalised sectors.

29. The division wise estimated loss to NWKSRTC, NEKSRTC, BMTTC due to clandestine operation of private buses shown as below:

Sl. No.	Division	Total loss per year (in lakhs)
1	BCD	8424
2	RNR	7849
3	TMK	3122
4	KLR	10648
5	CBP	18876
6	MCTD	8070
7	MMD	5176
8	MDY	5335
9	CJR	27560
10	HSN	4034
11	CKM	9465
12	MNG	5486
13	PTR	1779
14	DVG	31213
15	KBS	18542
	Total	165578

30. The respondent as well as regional transport officers have nominally registered the cases, recover the fines,

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attached the vehicles from permit violated vehicles. But their actions are not satisfied to stop the illegal operators of the private buses and also to loss the exchequers of the state.

31. In this case respondent submitted his comments that he taken action about such illegal operation of the private buses and he mentioned one or two buses numbers about he took the action. But which is a very drop of action taken by him and no use and controlled the such illegal operation. Further he brought notice in his comments that there was a dispute between complainant and his brother regarding ancestral property but this aspect cannot be considered about the allegation by the complainant. Due to illegal carrying if any accident committed by these private buses the common man would be suffered. Because many times the drivers of the private buses have not a valid driving licence, the buses may not insured and carrying excess passengers against the permit. Approximately 13,600 private buses, 1900 contract carriage buses and 2700 all India permit buses have violated the Motor Vehicles Rules.

32. In view of said facts and the material on record, it is considered that first and foremost it is necessary to take suitable action or effective measures to stop the private travellers to carrying the passengers by violating the permit conditions as well as Motor Vehicles Rules. Accordingly, now, acting under section 12(1) of the Karnataka Lokayukta Act, recommendation is made to the competent authority to stop the private travellers to carrying the passengers by violating condition permits as well as the Motor Vehicle Act 1988, and

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further as per section 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority is directed to intimate to this Authority within one month from the date of receipt of this report, the action taken or proposed to be taken on this report.

Connected records are enclosed.

Syds.
(Justice. Subhash B. Adi)
Upalokayukta-2,
State of Karnataka.
22/6/11