

Azeez.K vs the Executive Engineer

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SooperKanoon Citation : sooperkanoon.com/1709574

Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable the Chief Justice Mr.S.Manikumar,Honourable Mr. Justice Shaji P.Chaly

Appeal No. : WP(C)/30219/2018

Appellant : Azeez.K

Respondent : The Executive Engineer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR & THE HONOURABLE MR. JUSTICE SHAJI P.CHALY FRIDAY, THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 WP(C) NO. 30219 OF 2018 PETITIONER: AZEEZ.K, AGED 53 YEARS, S/O. ALAVI, KODAKKAD HOUSE, KALLOTTUKUNNU, MANATHAVADY P.O. - 670 645, WAYANAD DISTRICT. BY ADVS.P.T.MOHANKUMAR SHYAM PADMAN C.M.ANDREWS BOBY M.SEKHAR REVATHY P. MANOHARAN ANITYA ANNIE MATHEW LAYA MARY JOSEPH NABIL KHADER RESPONDENTS: 1 THE EXECUTIVE ENGINEER, PUBLIC WORKS DEPARTMENT,

GOVERNMENT OF KERALA, CIVIL STATION, KALPETTA - 673 121, WAYANAD DISTRICT. 2 KANIYAMBETTA GRAMA PANCHAYAT, REPRESENTED BY ITS SECRETARY, KANIYAMBETTA GRAMA PANCHAYAT OFFICE, KANIYAMBETTA P.O., WAYANAD- 3 CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM-695 001. 4 CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT, THIRUVANANTHAPURAM-695

033. (Additional R3 and R4 are IMPEADED AS PER ORDER DATED 21/02/2019.) BY ADVS.GOVERNMENT PLEADER SRI.K.R.RANJITH SRI.M.MUHAMMED SHAFI SHRI.N.MANOJ KUMAR, STATE ATTORNEY SMT.T.RASINI SRI.K.V.SOHAN, STATE ATTORNEY THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :: 2 ::

JUDGMENT

Dated this the 1st October, 2021 S. MANIKUMAR, CJ Mr.Azeez.K., petitioner is stated to be a social worker and trade union activist. He has filed the instant Public Interest Litigation alleging unauthorised construction of commercial establishments on either side of Kalpetta-Mananthavady State Highway under the guise of unauthorised construction of bus waiting sheds by many persons; and both Kaniyambetta Grama Panchayat/the 2nd respondent and the Executive Engineer, the Public Works Department, Kalpetta, Wayanad district/respondent No.1 have not taken any action to remove the above.

2. According to Mr. P. T. Mohan Kumar, learned counsel for

the petitioner, during the pendency of this writ petition, further encroachment has been made and the Grama Panchayat authorities are yet to take any action on the illegal encroachments.

3. Reliefs sought for in this writ petition are as follows: :: 3 ::

I. Issuing a writ, order or direction in the nature of mandamus or other appropriate form of writ, commanding the 1st and 2nd respondent to initiate appropriate action in a time bound manner to demolish the illegal structures claiming to be used as bus waiting sheds and directing the respondents to restrain construction of such illegal structures on the sides of Kalpetta-Mananthavady State Highway, especially in Kambalakkad Town, within the limits of Kaniyambetta Grama Panchayat;

II. Issuing a writ, order or direction in the nature of mandamus or other appropriate form of writ commanding the 2nd respondent, to provide all the facilities and amenities in the Kambalakkad bus stand, as contemplated under the Rules, and in compliance with all statutory mandates.

4. Material on record discloses that a statement dated

18.02.2019 has been filed on behalf of respondent No.1/the Executive Engineer, stating that when PWD authorities attempted to remove bus shelters, local public restrained the PWD from removing the bus shelters, as they are used by many students and old people, and therefore, PWD could not remove the unauthorised bus shelters.

5. Relevant portions of the said statement read as under:

4. It is an incorrect allegation that the Executive Engineer has remained as a mute spectator in this regard. During the budget work on this road PWD had :: 4 ::

demarcated the road boundaries and all the encroachments were removed from the road. But when it came to the notice of PWD that the road has been encroached by individuals and political parties after completion of the road work, notice was issued in newspapers to remove the encroachments. As the encroachments were not removed voluntarily, Assistant Engineer, PWD Roads Section, Kapetta and his team started removing the bus shelters erected without obtaining permission, advertisement boards and small bunk shops on Mananthavady Kalpetta

road obstructing the flow of traffic. PWD was able to remove illegal bunk shops and advertisement boards. But when PWD men attempted to remove bus shelters, the local public restrained PWD from it stating that these bus shelters are used by many students and old people. Therefore, PWD could not remove the unauthorised bus shelters.

5. In this circumstance, PWD had addressed the

Panchayath President, Kaniyambetta Panchayat (in which Kambalakkad town situated) by a letter dated 15.12.2018 and on 14.01.2019 requesting the Kaniyambetta Grama Panchayat to convene a traffic advisory committee meeting intimating the Revenue Department, Regional Transport Officer, Police, political parties and all stake holders to identify the unauthorised bus waiting sheds which are not used by the local people. It was also informed that once the illegal bus shelters are identified, PWD will remove the encroachments and ask others to get sanction from PWD for bus waiting sheds which are used by local people, though it is illegally constructed. It was in this background to give sanction for bus waiting shelters, which are erected illegally, but may be necessary for public use, Annexure-R1(a) guidelines stated above are prepared by the Assistant Engineer to give uniformity to bus waiting shelters which needs to be verified and approved by the higher authorities. :: 5 ::

6. PWD cannot control buses from stopping in the middle of the road. As mentioned above, PWD have taken steps for removing encroachments on Mananthavady Kalpetta State Highway.

6. Mr. N. Manoj Kumar, learned State Attorney, has filed a

statement on behalf of the 4th respondent/Chief Engineer, Public Works Department, Thiruvananthapuram, dated 25.09.2021, stating that there is no necessity to formulate new guidelines, in terms of the draft guidelines prepared for Wayanad district.

7. Relevant portions of the statement dated 25.09.2021 are extracted hereunder:

2. A statement was filed in the above case on behalf of the first respondent, Executive Engineer, Public Works Department, Kalpetta which states that a draft guideline for construction of bus waiting shelter on a PWD road in Wayanad District has been worked out. When the case came up for hearing on 21.02.2019, it was suggested that the said guideline can also be a model for construction of bus stop shelters and bus stands for the entire State, and for that to happen it will require widespread consultation with all the stakeholders and the approval of the higher authorities. Accordingly, the Hon'ble Division Bench impleaded the Chief Secretary as also the Chief Engineer of the Public Works Department as additional respondents in the case. It was directed that the draft guideline prepared at the local level be considered by the State authority, and thereafter, an appropriate conclusion on the guideline be reached. :: 6 ::

3. In this regard, it is respectfully submitted that

the IRC: 80-1981, Type design for Pick-up bus stops on Rural (Non-Urban) Highways is the standard which is being followed by Kerala Public Works Department throughout the State.

4. The guidelines proposed at the local level are

not conforming to IRC and also not supported by any scientific study, whereas IRC: 80-1981 was formulated after by a group of experts in the relevant field. Hence it is respectfully submitted that there is no necessity to

formulate new guidelines in terms of the guidelines

prepared for Wayanad district.

8. Pursuant to a meeting, regarding Traffic Reforms at

Kambalakkad Town, in Kaniyambetta Grama Panchayat held on 6.7.2018 and on the basis of the decisions taken in the said meeting, vide Annexure-R2(b), the President, Kaniyambetta Grama Panchayat, has requested the Deputy Superintendent of Police, Kalpetta to take action for implementation of the decisions on various aspects, including bus stops.

9. Annexure-R2(b) communication dated 09.07.2018 along with minutes of the meeting held on 06.07.2018, is reproduced:

OFFICE OF THE KANIYAMBETTA GRAMA PANCHAYAT Kaniyambetta P.O.,
Wayanad district, Pin 673122, Phone

----- Number: A1-500/2017 Date:
09/07/2018 :: 7 :: The President, Kaniyambetta Grama Panchayat. Respected
DYSP, Kalpetta. Sir, Subject: Kambalakkad traffic reforms-sending the minutes of
the meeting dt. 06/07/2018-reg. Ref:- Minutes of the meeting dated 06.07.2018. A
meeting regarding the traffic reforms at Kambalakkad town in Kaniyambetta
Grama Panchayat was

held at the panchayat conference hall at 3 PM on Friday

meeting for the implementation of the same. Yours faithfully, Sd/- Secretary
Kaniyambetta Grama Panchayat A meeting regarding the traffic regulation/reforms
at the Kambalakkad town in Kaniyambetta Grama Panchayat was

held at the grama panchayat conference hall at 3 PM on

Friday 06/07/2018. The participants and the decisions. PARTICIPANTS:
The President, The Administrative Committee Members, representatives
of various political parties, office bearers of the Trade Unions, DYSP
Kalpetta, Police Sub Inspector Kambalakkad and the members of the
Kambalakkad Town Development Committee-in total 33 persons. The
Panchayat President presided over the function. DYSP and SI,
Kambalakkad explained about the traffic reforms. After the general
discussions, it was resolved to implement the same from 22/07/2018 as

given below. Directions :: 8 ::

are given to the Grama Panchayat for erecting necessary signboards and to construct waiting sheds before that date. The absence of the officials of the motor vehicle department and the public works department in the meeting attained special attention and resolved to give direction for their compulsory participation in the next meeting.

1. The areas to be demarcated as no parking zones

1. The area from the residence of Mr. P.T. Kunhabdulla up to the School road. (Kozhinhangad) (state Bank side)
2. On the opposite of the Kambalakkad bus stand, from the saw mill to nice bakery. (both sides)
3. The area from Sneha' fancy, Kambalakkad up to the shadow tree near the Flashback Studio (bus stop area)
4. From the beginning of the Kadavan store upto the "Brothers Textiles.
5. From the beginning of the Pallikkunnu Road up to Milan Hotel. (both sides)
6. Right side of the Kambalakkad- Kozhinhangad road. (School road)
7. Samskarika Nilayam' Road (applicable only to taxi vehicles including Autorickshaws)

2. The areas identified for providing parking facility for Autorickshaws

1. From Sneha fancy, Kambalakkad towards Kambalakkad

Vayal Road (Park the vehicles leaving vacant the area to be demarcated by the Panchayat, in front of the Standard and Ideal shops. Two Autorickshaws are to be moved from the site so as to enable one lorry to park and do loading and unloading the goods).

2. From Dhanwanthari Ayurveda' dispensary to Joel studio Road. :: 9 ::
 3. From State bank ATM to the residence of Mr. P.T. Kunhabdulla Haji.
 4. On Pallikkunnu Road, from the Zebra line up to Salafi' Masjid excluding the ways.
 5. On the opposite side of the Crime Branch adjacent to the Panchayat Bus Stand.
 6. The area adjacent to the Bus Stop opposite to the Mosque at Keltron curve.
 7. Four wheel Auto - from Joel studio to Goods Auto parking (the mascot Bakery).
3. The area identified for providing_parking facility for Goods Autorikshaws
 1. The area from Mascot Bakery to Irshadiyya Mosque Road.
 4. The areas identified for providing parking facility for Taxi Jeeps
 1. The area from the beginning of Kambalakkad Vayal Road to HDFC ATM (zebra line marking)
 2. The area moving eight meters away from the School Road up to KSEB transformer.
 5. The areas identified for providing parking facility for Tourist Taxies
 1. From Al-shifa' treatment center towards the Bust Stand area.
 2. The area opposite to the Cinema Hall towards Kaniyambetta.
 6. The areas identified for providing parking facility for Goods Jeeps
 1. On Pallikkunnu Road, from Vijaya Agencies Go-down towards Pallikkunnu.
 7. The areas identified for providing parking facility for Tractors and Pick-up Vans
- :: 10 :: I. The area opposite to the Kambalakkad Petrol Pump towards Kalpetta.

2. The area opposite to the Cinema Hall towards Kaniyambetta. (behind tourist vehicles)

8. The areas identified for providing parking facility for private vehicles

1. From the shadow tree near the Flashback studio up to the City Medicals. (maximum parking time is 20 minutes)

2. The area from Calicut Cement Agency to Minsha' road (maximum parking time is 20 minutes)

3. The left side of Kozhinhangad Road (maximum parking time is 20 minutes)

4. From the School road junction to the Chicken Stall towards the Bus stand (maximum parking time is 20 minutes)

5. On Pallikkunnu Road, behind the area identified for parking the Goods Jeeps (maximum parking time is 20 minutes)

9. Two Wheeler parking

1. From the Chicken Stall to the Crime Branch Office towards the Bus stand (maximum parking time is 20 minutes)

2. From the Irshadiyya' Madrassa to Calicut cement agency (maximum parking time is 20 minutes)

3. On Pallikkunnu Road, behind the area identified for parking the Goods jeeps (maximum parking time is 20 minutes)

10. Newly proposed and regularising bus stops

1. Construction of a new Bus Stop on the opposite side of the new Bus Stand.

2. Shifting of the Bus Stop situated on the opposite side of the Madrassa on Kalpetta-Panamaram Road near to the MS Hardware. :: 11 ::

3. Shifting of the Bus Stop situated on the side of Pallikkunnu road to the opposite side of MPM Hardware.

11. Bus stops

1. All the K.S.R.T.C. and Private Buses from Kalpetta and

going through Pallikkunnu road, after stopping at the Bus Stop near the MS Hardware in town and then entering into the Panchayat Bus Stand shall return and stop at the bus stop on the Pallikkunnu road.

2. All the K.S.R.T.C. and Private Buses coming from

Pallikkunnu side, shall stop and alight the passengers in front of the Palace Hotel and then enter to the Panchayat Bus Stand and then stop at the Bus Stop in front of the Mosque in the town.

3. It is resolved to stop the entry and parking of vehicles

other than K.S.R.T.C. and Private Buses to the newly arranged Bus Stand at Kambalakkad town and to exhibit boards detailing the arrival of buses at the Bus Stand and Bus Stops.

4. Resolved to stop the parallel jeep services from Kambalakkad town towards Pallikkunnu side.

5. Resolved to demand the Police to take steps to stop the parallel jeep services on the Pallikkunnu road.

6. The parking time is from morning to 8 o'clock to evening 8 o'clock.

12. To erect boards banning the entry and parking of vehicles other than buses inside the new bus stand at Kambalakkad town.

13. To ban the advertisement and fixing of flex boards on the High Mast light poles, electric posts, shadow trees and traffic sign boards at Kambalakkad. The meeting was over at 6 o'clock. Sd/- President Kaniyambetta Grama Panchayat ::

12 ::

10. On the complaint preferred by Mr. Azeez Kodakkatt,

Secretary of Kaniyambetta Grama Panchayat, in Exhibit-R2(a) communication dated 30.11.2018, has requested the Executive Engineer, PWD Roads Section, Kalpetta, to examine the complaint regarding construction of bus waiting sheds, and take steps for removal of the same.

11. Exhibit-R2(a) communicated is extracted hereunder:

OFFICE OF THE KANIYAMBETTA GRAMA PANCHAYAT Kaniyambetta P.O.,
Wayanad district, Pin 673122, Phone: 0493686693 Email-
kaniyambetta@p@gmail.com -----

Number: B4/9287/2018 Date: 30/11/2018 The Secretary, Kaniyambetta Grama Panchayat The Executive Engineer, PWD Roads Division, Kalpetta. Sir, Subject- Removal of unauthorized bus stops-reg Reference - WPC No.30219/2018 before the Hon'ble High Court of Kerala filed by Sri. Azeez Kodakkatt. Vide reference cited above Sri. Azeez Kodakkatt has preferred a complaint stating that bus waiting sheds are constructed at places like Kambalakkad, Kaniyambetta and Panchilakkad obstructing the road :: 13 :: traffic therein. So you may examine the matter and take appropriate urgent steps to remove the same. Yours faithfully,
Sd/- Secretary Kaniyambetta Grama Panchayat

12. Exhibits-P1 to P6 photographs enclosed depict that besides

the bus stops constructed on either sides of Kalpetta-Mananthavady State Highway, by the Grama Panchayat or PWD, as the case may be, there are many bus stops in the name of many persons or with the identity of some political parties. Said fact is also candidly admitted by Kaniyambetta Grama Panchayat, respondent No.2, and PWD.

13. Draft guidelines framed for Wayanad district have been

found as not viable, as they do not conform to the IRC guidelines

and not supported by any scientific data, as compared to IRC: 80- 1981, formulated by a group of experts in the relevant field.

14. When the Public Works Department is able to remove the

illegal bunk shops and advertisement boards, it is their contention that they could not remove the unauthorised bus shelters on the ground that the local public restrained them, for the reason that :: 14 :: they are used by many students and old people. Merely because, the local public objected for removal, it cannot be contended by PWD that they would allow unauthorised bus shelters. First of all, PWD and the local body, ought not have allowed any unauthorized construction of the bus shelters, contrary to the statutory provisions. By the inaction in exercising statutory functions, they have no right to contend that their failure to be ratified. There cannot be a perpetuity of an illegality, in not taking action.

15. Draft guidelines for the construction of a bus waiting

shelter on PWD road in Wayanad district, have been framed and that the same is extracted hereunder: **DRAFT GUIDELINES FOR THE CONSTRUCTION OF A BUS WAITING SHELTER ON A PWD ROAD IN WAYANAD DISTRICT**

A Writ Petition, WP(C) No.30219/2018, was filed by Mr. Azeez K., about unauthorized bus waiting sheds constructed by some local associations, individuals, Panchayat etc., on Mananthavady-Kalpetta Road, especially at Kambalakkad town. Assistant Engineer, PWD Roads section, Kalpetta discussed the case with State Attorney Sri. Sohan 29/01/2019 and he enquired :: 15 ::

the possibility of giving some guidelines for the construction of bus waiting shelters in PWD roads. So in this regard some guidelines have been developed by the Assistant Engineer, which needs to be verified and approved by the highway authority. To decide what type of shelter to use in a particular area requires an analysis of existing and anticipated conditions, as well as some knowledge of the characteristics of good shelter location and design. Below are the proposed guidelines to be considered for giving approval for the construction of a bus waiting shelter.

1. The application for the construction of a bus waiting shelter on a PWD road should be applied to the highway authority with the consent of the local body with a detailed estimate and drawings.
2. The permission will be given for the construction of a temporary structure and hence, the materials used for the construction should be light and easily demolishable. No concrete structures should be constructed.
3. Bus shelters should be set back from the pedestrian crossings approximately 3m to avoid conflicts with pedestrian traffic.
4. Bus shelters near junctions should be located a minimum of 30m from the junction to provide adequate room for the bus to stop and to avoid traffic blocks.
5. A minimum distance of 2m should be provided between the bus shelter and the pavement edge to avoid conflicts between public transport and private transport. :: 16 ::
6. Bus shelters should have their long side parallel to the side-walk to minimise interference with pedestrian traffic.
7. The openings should be oriented so that people are protected from the wind and rain.
8. People must be able to see the bus coming.
9. People must be able to board the bus conveniently. The bus shelters should not be at a higher point which will make the process of boarding difficult for women, kids, senior citizens and differently abled persons.
10. Bus shelters should be provided with split seats so that no one sleeps and transparent materials should be used for side panels if provided.
11. Information boards about bus timings should be provided for helping people who are unfamiliar with the service, such as tourists.
12. A pitched roof should be used to prevent the collection of rain and debris.

13. Plastic materials and flex boards should not be used.

14. In cities lights should be housed in a protective casing to reduce vandalism, and directed so that they illuminate the waiting and boarding areas. At least 2 numbers of 12 Watts LED lamps should be provided.

15. As a standard size 5mx2m should be followed. But the highway authority has the power to change the size according to the number of people who are expected to use it.

16. The size of boards giving information of the sponsors of the bus shelters should not exceed 4mx0.40m.

17. The bus shelters should not in any way represent a political party. Any symbols, flags representing a political party should not be used in bus shelters except on the boards mentioned in guideline. :: 17 ::

18. Paints other than black, white and yellow should not be applied on the bus shelters.

19. No advertisement boards should be displayed without the permission of the highway authority.

20. A minimum distance of 50m should be maintained between the bus waiting shelters on upward and downward directions.

21. The side poles of the bus waiting shelter should be painted with fluorescent paint to give clear view at night. JITHIN N., ASSISTANT ENGINEER PUBLIC WORKS DEPARTMENT ROAD SECTION KALPETTA

16. Material on record discloses that when the matter came up

for hearing on 21.02.2019, a suggestion has been made by the court that the said guideline can also be a model for construction of bus- stop shelters and bus-stands, for the entire State, and for that to happen, it was felt that it would require a widespread consultation with all the stakeholders and approval of the higher authorities.

17. Accordingly, the Hon'ble Division Bench impleaded the

Chief Secretary, and the Chief Engineer of the Public Works Department as additional respondent Nos. 3 and 4 and directed that the draft guideline, prepared at the local level, be considered by the :: 18 :: State Authorities, and thereafter, an appropriate conclusion on the guideline can be reached.

18. In this regard, the learned State Attorney, in the statement

dated 25th September 2021, filed on behalf of the 4th respondent, has stated that IRC: 80-1981, Type Designs for Pick-up Bus Stops on Rural (Non Urban) Highways is the standard which is being followed by Kerala Public Works Department throughout the State, as evident from Annexure-R4(a).

19. It is further stated that the guidelines proposed at the

local level are not in conformity with IRC and also not supported by any study, whereas, IRC: 80-1981 was formulated by a group of experts in the relevant field.

20. Therefore, it is submitted that there is no necessity to formulate new guidelines, in terms of the guidelines prepared for Wayanad district.

21. In this context, Annexure-R4(a), Type Designs Pick-Up Bus Stops on Rural (i.e. Non Urban) Highways, is extracted hereunder: :: 19 :: TYPE DESIGNS FOR PICK-UP BUS STOPS ON RURAL (i.e. NON-URBAN) HIGHWAYS

1. INTRODUCTION

1.1. Buses standing indiscriminately on the carriageway to drop or pick-up passengers can seriously affect capacity of the roadway, besides being a source of accidents. It is, therefore, desirable that on all busy non-urban highways, consideration should be given to the construction of bus laybys of suitable design at required locations to ensure orderly movement of the through traffic. 1.2. Recognising the need for a standard on this subject, the Specifications and Standards Committee has evolved the type designs given herein covering the siting and layout

of wayside pick-up bus stops, and these are recommended for general adoption. 1.3. These type designs were considered by the Specifications and Standards Committee in their meeting

held at Guwahati on the 26th October, 1979. The

Committee, after reviewing the standard, in their meeting,

held at Srinagar on the 20th August, 1980 set up a Working

Group consisting of R.P. Sikka and Dr. N.S. Srinivasan to go into the test and finalise the same for further necessary action. The standard as finalised by the Working Group was processed and approved by the Executive Committee and the Council in their meetings held on the 11 th August and 20th September, 1981 respectively.

2. SCOPE

2.1. The standard applies essentially to wayside bus stops in non-urban locations meant for quick loading and unloading of passengers. It does not deal with more elaborate bus depots or terminals which are sometimes provided by the side of the road between the cities. 2.2. As regards design of on-street bus stops in urban or sub-urban situations, reference may be made to IRC : 70- 1977 "Guidelines on Regulation and Control of Mixed :: 20 ::

Traffic in Urban Areas".

3. NEED FOR LAYBYES

3.1. The need for laybyes on a particular road will depend on factors like the volume of traffic, frequency of buses stopping to pick-up passengers, duration of bus stops etc. 3.2. Normally, provision of separate laybyes will be justified on all important trunk routes such as National Highways

and State Highways, when :

- (a) the volume of traffic is such that through traffic movement will be unduly disturbed by buses stopping on the carriageway :
- (b) buses are required to halt at a particular stop for considerable time for rest or loading/unloading of passengers and goods; or
- (c) the road is passing through a relatively

congested locality like a village or a small town where besides waiting passengers the roadway is occupied by local traffic as well. 3.3. Usually, bus laybys will not be required on lower category roads like Other District Roads and Village Roads where traffic is comparatively low and not many buses ply on the route. However, from safety considerations it may be desirable to provide separate laybys at the bus terminal points.

4. GENERAL PRINCIPLES OF LOCATION

4.1. The governing considerations when locating pick-up bus stops are increased overall safety and minimum interference to the through traffic.

4.2. Normally the bus stops should be sited away from bridges and other important structures, also from embankment sections which are more than four metres high. As far as possible, these should not be located on horizontal curves or at the top of summit, vertical curves. :: 21 ::

Moreover, the need for good visibility all round corresponding to safe stopping sight distance should be kept in view. 4.3. Bus stops should not be located too close to the road intersections. A gap of 300 metres from the tangent point of intersection to start/end of the laybye will be desirable, particularly at junctions with main roads. In other cases, the distance may be relaxed to a certain extent having regard to the local conditions. At minor intersections (e.g. junctions with village roads), a distance of 60 metres may be accepted as a special case. However, if a

substantial volume of buses is to turn right at the intersection, it is necessary that the bus stop should be located sufficiently ahead of the intersection so that the buses can be manoeuvred easily from the pick-up stop on the left hand side to the extreme right lane for turning. 4.4. At major four-way intersections involving transfer of a substantial number of passengers from one pick-up stop to the other, it might be desirable to construct a single, composite bus stop of suitable design to cater to all the bus routes collectively. 4.5. In hilly areas, the bus stops should be located preferably where the road is straight on both sides, gradients are flat and the visibility is reasonably good (usually not less than 50 metres). Subject to these requirements, it will be advisable to choose locations where it is possible to widen the roadway economically for accommodating bus laybys, passenger shelters, etc.

5. LAYOUT AND DESIGN

5.1. Typical layouts of laybys are given in figures 1 to 3. Selection of layout at a particular location should be based on local factors like the number of buses stopping at a time, the period of halt, volume of traffic on the road, number of passengers alighting at the bus stop etc. To determine the layout required, a careful study of various factors should be made and the bus authorities also consulted. :: 22 ::

5.2. In the normal run, layout in Fig. 1 will be found suitable for bus stops on busy sections of the highways. For bus stops on lightly trafficked routes, or where the number of buses halting each day is nominal, the layout shown in Fig. 2 will be better suited. For hilly areas where there is a general constraint on space, the more simple layout indicated in Fig. 3 may be adopted. Length shown in Figs. 1-3 should be usually 15 metres, but may be increased in multiples of 15 metres if more than one bus is likely to halt at the pick-up stop at one time. 5.3. Normally the bus stops should be provided on both sides of the road for each direction of travel independently so that the buses do not have to cut across the road. Bus

stops on opposite sides should be staggered to a certain extent as shown in Fig. 4 to avoid undue congestion on the highway. At intersections it may be preferable to locate the bus stops for up and down directions on farther sides of the intersection. 5.4. Ordinarily, no structure other than sheds, for passengers, should be permitted at the bus stops. The sheds should be structurally safe and aesthetic in appearance, while also being functional so as to protect the waiting passengers adequately from sun, wind and rain. If the shed is constructed on the hill side, slopes should be properly dressed and suitably protected to avoid slips. The sheds should be set back from the kerb line by at least 0.25 metres. 5.5. On important bus stops, temporary types of toilet facilities with necessary arrangements for disposal of effluents (for instance with the help of soak pits) may also be provided close to the road land boundary away from the passenger shelters.

6. PAYING OF LAYBYE AREA

6.1. The pavement in the laybye area should have adequate crust with respect to the wheel loads expected. Also, the surfacing should be strong enough to withstand forces due to frequent braking and acceleration by the buses. The :: 23 ::

colour and texture of the laybye surfacing should be preferably distinctive from that of the main carriageway. 6.2. Shoulders close to the laybyes should be paved to some distance (see Figs. 1, 3 & 4) to permit parking of occasional vehicles and facilitate drainage. Brick-on edge; lean cement concrete, lean cement-fly ash concrete and lime-fly ash concrete either cast-in-situ or precast; precast tiles; stone slabs/blocks; water bound macadam with surface dressing etc., are some of the materials which could be considered for this purpose. Paved shoulders should be flush with the surface of the adjoining carriageway and slope away from it to enable drainage. Where the pavement and the shoulders are of the same colour, it will be preferable to provide edge lines at their junction in accordance with IRC : 35-1970 "Code of Practice for Road Markings

(with paints)".

7. DRAINAGE

7.1. Laybys for pick-up bus stops should have proper cross slope to drain off the excess water. No water which is likely to splash on the waiting passengers should be allowed to collect near the bus shelters.

7.2. Along all kerbed edges it will be desirable to provide a suitable kerb-gutter section with requisite longitudinal slope and outlets at intervals to ensure quick disposal of water. E. MARKINGS 8.1. Pavement markings at the bus stops should be provided as shown in Figs. 1-3 with the word BUS written prominently on the pavement. Pedestrian crossings should be marked slightly behind the standing position of the buses in order to reduce pedestrian conflicts. Moreover, the Kerbs should be marked with a continuous yellow line to indicate no parking. 8.2. For more details about road markings reference may be made to IRC : 35-1970. 8.3. Markings should be kept maintained regularly. :: 24 ::

22. As regards the usage of bus stand put up by Kaniyambetta

Grama Panchayat, it is stated by the said Panchayat that the bus stand is functioning since 2014. The bus stand is situated 1 KM away from the main town and the same was constructed anticipating the future development of the town also. Since the number of commuters waiting at the bus stand was less, the buses used to pass through the main road in front of the bus stand. But as per the request of the Panchayat, on 6.7.2018 a meeting of the Town Traffic Regulatory Committee was convened and it was decided to implement traffic regulations directing the buses to enter the bus stand on an experimental basis from 1.9.2018 and on a regular basis from 10.12.2018.

23. It is stated that now almost all the buses are operating

through the bus stand and the 2nd respondent had arranged all necessary amenities for the travelling public and the crew of the buses at the bus stand. It is also stated that the second respondent has taken all the earnest efforts to provide

facilities for the general public and passengers, within the jurisdiction of the Panchayat, by :: 25 :: providing a bus stand and bus waiting sheds. It is further contended that most of the so called unauthorised bus waiting sheds are necessary for the travelling public. If any illegal or unauthorised constructions of the bus waiting shed are in existence, any action in this regard has to be taken by the first respondent. That apart, Mr.M.Muhammed Shafi, learned counsel for the said Panchayat, submitted that there are some repair works.

24. Be that as it may, the said bus stand should be made operational, functional and public, in all costs, should use it for the purposes for which, the bus stand is put up.

25. Having heard learned counsel for the parties and perused

the materials on record, we dispose of the writ petition with a direction to the respondents, to remove all the unauthorised bus stops on either side of Kalpetta-Mananthavady State Highway, within a period of three months from the date or receipt of a certified copy of this judgment.

26. Said exercise be done by the Public Works Department, in

co-ordination with Transport Department, Motor Vehicles :: 26 :: Department, Local Body and Police. Directions issued by this Court should be implemented by all concerned forthwith. sd/- S.MANIKUMAR CHIEF JUSTICE sd/- SHAJI P. CHALY JUDGE jesxxxxxxxx :: 27 :: APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1 PHOTOGRAPH OF THE DESERTED BUS STATION AT KAMBALAKKAD EXHIBIT P2 PHOTOGRAPH OF THE DESERTED BUS STATION AT KAMBALAKKAD EXHIBIT P3 PHOTOGRAPH SHOWING OBSTRUCTION TO PRIVATE INDIVIDUAL EXHIBIT P4 PHOTOGRAPH SHOWING THE STRUCTURE CONSTRUCTED BY THE YOUTH WING OF A MAJOR POLITICAL PARTY, EXHIBIT P5 PHOTOGRAPHS SHOWING ILLEGAL STRUCTURES (9 NUMBERS) EXHIBIT P6 PHOTOGRAPH SHOWING DANGEROUS HALTING OF BUSES IN THE TOWN RESPONDENTS' EXHIBITS: EXHIBIT R2(a) TRUE COPY OF THE COMMUNICATION DATED 30.11.2018 ALONG WITH ITS ENGLISH TRANSLATION. EXHIBIT R2(b) TRUE COPY OF THE MINUTES OF MEETING

DATED 6.7.18 ALONG WITH ITS ENGLISH TRANSLATION. ANNEXURE R4(a)
TRUE COPY OF THE TYPE DESIGNS FOR PICK UP BUS STOPS ON RURAL
(IE. NON-URBAN) HIGH WAYS FORMULATED BY THE IRC (INDIAN ROADS
CONGRESS) // TRUE COPY // P.S. TO JUDGE

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