

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

RP.No. 285 of 2015 (J) IN WP(C).35492/2014

**AGAINST THE JUDGMENT IN WP(C) 35492/2014 of HIGH COURT OF KERALA DATED
30-12-2014**

REVIEW PETITIONER/LEAVE PETITIONER:

**SHINE MATHEW
ELACKATTU HOUSE, KAIPUZHA,
KOTTAYAM**

BY ADV. SRI.P.DEEPAK

RESPONDENT(S):

- 1. P.V. CHACKO,
PULLATHIL HOUSE, THELLAKOM PO
KOTTAYAM DISTRICT - 686 630**
- 2. THE SECRETARY, REGIONAL TRANSPORT AUTHORITY
KOTTAYAM - 686 001**

**R1 BY ADV. SRI.SAJU J.VALLYARA
R2 BY SRI P.V. ELIAS, GOVERNMENT PLEADER**

**THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 25-05-2015, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**

R.P.NO.285/2015

APPENDIX

PETITIONER'S ANNEXURE:

- ANNEXURE A: COPY OF THE PERMIT ISSUED TO THE PETITIONER'S STAGE CARRIAGE KL-05/Y 6128**
- ANNEXURE B: COPY OF THE JUDGMENT DATED 30.12.2014 IN WPC NO.35492/2014**
- ANNEXURE C: COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 28.01.2015**
- ANNEXURE D: COPY OF THE REPRESENTATION DATED 05.01.2015**
- ANNEXURE E: COPY OF THE JUDGMENT IN RP NO.7/2015 AND CONNECTED CASE.**

RESPONDENTS' ANNEXURE: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRA, J.

R.P. No.285 of 2015

Dated this the 25th day of May, 2015

JUDGMENT

This review petition has been filed by the petitioner, who is a 3rd party to W.P.(C). No.35492/2014 seeking review of Annexure-B judgment of this Court dated 30.12.2014 in that writ petition. By the aforesaid judgment, this Court has directed the 2nd respondent to grant and issue temporary permit to the stage carriage bearing Registration No.KL-05/S-6915 owned by the 1st respondent on the route Village Hall - Kottayam in the vacant timings of stage carriage bearing Registration No.KL-05/410 if the vacancy of stage carriage bearing Registration No.KL-05/410 is still in existence and no other person having better claim has applied for a temporary permit to operate a stage carriage in that vacancy. It was also made clear that such issuance of temporary permit will subject to preferential claim if any of others.

2. Pursuant to the direction contained in Annexure-B judgment, the 2nd respondent issued Ext.R1(a) temporary permit to the 1st respondent which is valid for the period from 28.01.2015 to 27.05.2015.

3. The petitioner, who is a 3rd party to W.P.(C). No.35492/2014, has filed this review petition contending that there is error apparent on the face of Annexure-B judgment and the same is liable to be reviewed. It is contended in the review petition that the route applied by the 1st respondent is having a total distance of 22 kilometers and that a portion of the route from Kottayam to Gandhinagar for a distance of around 6 kilometers objectionably overlapped the notified route Ernakulam - Thekkady scheme and another portion from Ammencherry to Medical College for a distance of 1.5 kilometers objectionably overlapped the Kottayam - Neendor complete exclusion scheme. Therefore, according to the petitioner, the applied route objectionably overlapped beyond the permissible limit as per G.O.(P) No. 42/2009 Tran dated 14.07.2009.

4. On the other hand, the 1st respondent, relying on the averments in the counter affidavit filed on 09.04.2015 would contend that as evident from R1(b) proceedings of the Regional Transport Authority, Kottayam dated 30.05.2013, it has been decided that the route Village Hall - Kottayam is not a notified route. Therefore, according to the 1st respondent, in view of Annexure R1(b), there is no legal impediment in granting

temporary permit to his stage carriage in the vacancy of another service.

5. I have considered the rival submissions made by the petitioner and the 1st respondent and also heard the learned Government Pleader appearing for the 2nd respondent.

6. As I have already noticed, Annexure R1(b) temporary permit granted to the 1st respondent pursuant to the direction contained in Annexure-B judgment will expire on 27.05.2015.

In such circumstances, without going into the merits of the rival contentions raised by the petitioner and the 1st respondent, I close this review petition leaving open all the contentions raised by both sides. It will be open to the petitioner to raise all such contentions before the 2nd respondent in case the 1st respondent makes a fresh application for re-issuance of Annexure R1(a) temporary permit. If any such application is made, the 2nd respondent shall consider the same only with notice to the petitioner and after giving him a reasonable opportunity to raise his objections.

The review petition is closed as above.

Sd/-
ANIL K. NARENDRAN,
JUDGE