

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WA.No. 136 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN WP(C).NO. 30601/2014 DATED 26-11-2014.

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APPELLANT/PETITIONER:

**A. KUMAR,
S/O.ANGAMUTHU CHETTIAR, 3/838, T.B. ROAD,
VADAKKENCHERRY, PALAKKAD DISTRICT.**

**BY ADVS.SRI.G.HARIHARAN,
SRI.PRAVEEN.H.**

RESPONDENTS/RESPONDENTS:

- 1. REGIONAL TRANSPORT AUTHORITY, PALAKKAD,
REPRESENTED BY ITS SECRETARY, PIN-678 001.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
PALAKKAD-678 001.**

BY SPL. GOVT. PLEADER SMT.GIRIJA GOPAL.

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

**ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.**

W.A.No.136 of 2015

Dated this the 22nd day of January 2015

J U D G M E N T

Shaffique,J

This writ appeal has been filed challenging the judgment dated 26/11/2014 in W.P.(C) No.30601/2014. In the *writ petition*, petitioner claims to be a stage carriage operator and registered owner of Stage Carriage Bus bearing No.KL-49-8686 which was covered by a regular stage carriage permit to operate on a particular route. Ext.P1 is the said document. According to the petitioner, he had filed an application for renewal of the permit as per Ext.P2. In the meantime, Ext.P2 application was taken for consideration by the Regional Transport Authority in its meeting held on 12/08/2014 and Ext.P3 proceedings had been issued. Aggrieved by the directions issued in Ext.P3, the *writ petition* was filed inter alia seeking for a direction to the 1st respondent to consider Ext.P2 application for renewal of

permit without waiting for Government decision on the use of higher class of vehicles in long distance routes and for a further direction to restrain the respondent from proceeding with the proposal to revoke the permit of the petitioner.

2. The learned Single Judge dismissed the *writ petition* forming an opinion that the regular permit of the petitioner has already expired and in view of notification No.G.O (P) No.73 of 2013 dated 16/07/2013, the petitioner is not entitled for renewal. The validity of the notification is pending before this Court in a writ appeal. In that view of the matter, it is observed that denial for consideration of Ext.P2 application cannot be faulted. However, it is further observed that if a revocation is made, that cannot be faulted in view of the notification. It is further made clear that revocation shall not prejudice the petitioner, if favourable orders are passed in the writ appeal. Impugning the aforesaid judgment, learned counsel for the appellant submits that so far revocation has not been made in the matter. Ext.P3 order reads as under:

*“Heard, this is an application for renewal of stage carriage permit (Limited Stop-Fast Passenger). As per G.O(P) No.73/2013/Tran dated 16/07/2013, the Government directed not to issue fresh permit/renewal of permit to upper class stage carriages of the private sector. This imposition is further amended to the extent of issuing temporary permit for upper class stage carriages of private sector to meet the travelling needs of public, as KSRTC is not fully equipped to act according to the above notification, as per the instruction of the Government vide letter No.10689/B1/2014/Tran dated 17/07/2014. Further action on upper class stage carriage permit to be considered only after further orders from the Government. Hence, decision on permit renewal application is **adjourned**.*

As per the judgment of Hon'ble STAT the permit has to be replaced with suitable stage carriage within a period of 04 (four) months with effect from 10/05/2013 (now the permit is under suspended animation). Hence, Secretary is directed to take further actions to revoke the permit in accordance with law and intimate the matter to this authority immediately.”

3. According to the learned counsel for the appellant, the decision on permit renewal application is only adjourned. However, there was a direction by the RTA indicating that the permit is under suspended animation as the period has already expired. The Secretary, RTA was directed to take further action to revoke the permit in accordance with law and to intimate the matter to the said authority. In so far as Ext.P3 order has not been interfered with by the Court, if at all the petitioner is entitled for the benefit of Ext.P3, it will be available to him.

Therefore, we do not think that there is any necessity to interfere with the judgment of the learned Single Judge and hence this writ appeal is dismissed.

(sd/-)
**(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)**

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr

