

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

WA.No. 557 of 2014 () IN WP(C).16082/2013

AGAINST THE JUDGMENT IN WP(C) 16082/2013 of HIGH COURT OF KERALA DATED
26-08-2013

APPELLANT (3RD RESPONDENT IN THE WRIT PETITION):

C.P. JOY, S/O.POULOSE
CHIRANELLUKKARAN MADASSERY HOUSE, KANDASSANKADAVU PO
THRISSUR-680 012.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENTS/RESPONDENTS 1&2/PETITIONER IN THE WPC:

1. THE REGIONAL TRANSPORT AUTHORITY, THRISSUR
REPRESENTED BY ITS SECRETARY -680 001

2. THE SECRETARY
REGIONAL TRANSPORT AUTHORITY, THRISSUR-680001.

3. SIBI, S/O.UNNIKRISHNAN
31/126, (130), POOKKATT
MANALUR P.O, THRISSUR 680617

BY ADV. SRI.K.V.GOPINATHAN NAIR, STATE ATTORNEY

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 03-08-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

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W.A.No.557 of 2014

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Dated this the 3rd day of August, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the appellant and the learned counsel for the contesting respondents.

2. The appellant was granted regular permit on the route Vilakkumkal-Chavakkad to ply a stage carriage. After the grant, it appears that he required the R.T.A. to make modifications in the identity of the intermediary points through that route, by stating that there was some error to that extent in the original grant. The R.T.A. granted such rectification. Thereafter, he applied and the R.T.A. allowed maximum time of four months as per Rule 159(2) of the Kerala Motor Vehicles Rules, 1989, however that, period of four months was granted from the date of communication of the last decision made on 05.07.2012, which was the decision of correcting the identity of the intermediary points through the route over which permit was already granted. The third respondent, impeaching that the said action of the R.T.A. was in excess of authority and in violation of Rule 159(2) of the KMV Rules, filed the writ petition

from which this appeal arises. Learned single Judge held that in terms of Rule 159(2) of KMV Rules, the maximum period of four months could have been granted only from the date of grant and the so called subsequent rectification does not amount to a fresh grant. It was also pointed out by the learned single Judge that the so called rectification itself was unnecessary to energize the permit as one which would stand. Accordingly, learned single Judge quashed Ext.P4 granting the appellant four months' time from 05.07.2012. Hence, this appeal.

3. Learned counsel for the appellant reiterated the contentions raised before the learned single Judge as regards the interpretation and application of Sub-rule (2) of Rule 159 of the KMV Rules. He also emphasized the plea raised before the learned single Judge that the writ petitioner does not have locus standi in as much as he was not shown to be a rival operator who had an interest, which was not at par with the interest of the travelling public.

4. For one thing, at the outset, we may note that if infraction of statutory rules is established, it goes without saying that the issue of locus standi may not gain importance in such litigations. Even if the writ petitioner is a rival operator or not,

such contentions would essentially depend upon the question as to whether a particular decision is impeached as in exercise of the statutory provision or in violation of such prescriptions. Sub-rule (2) of Rule 159 of the KMV Rules commences by saying that the said provision operates when the applicant is unable to produce the certificate of registration on the date of application for permit. It therefore goes without saying that in normal situation, what is contemplated is that the certificate of registration should be available with the applicant as on the date of application for permit. The power to relax that prescription, as enjoined by Sub-rule (2) of Rule 159 of the KMV Rules, gives fair room to push the time limit for production of certificate of registration for a period of four months from the date of grant. What is being granted is a permit between two points. The question as regards the intermediary points or stops which the said vehicle could make in its transit as a stage carriage is a matter not specifically relatable to the grant but, fundamentally governing the operations under the control of the transport authority. Under such circumstances, we are not inclined to take the view that the period of four months could have been extended by four months from the date on which the so called rectification was made in the order of grant. The grant stood made

and final as on 02.02.2012 on which date the R.T.A. had granted regular permit to the appellant on the route Vilakkumkal-Chavakkad. Therefore, it was impermissible for the R.T.A. to allow maximum time of four months from 05.07.2012 for production of documents in terms of Sub-rule (2) of Rule 159 of the KMV Rules. Hence, it was a case of clear infraction of rules and statutory rules and therefore, the learned single Judge was well within the jurisdiction to entertain the writ petition de hors the availability of an alternate remedy by way of statutory revision before the S.T.A. and also to grant relief to the writ petitioner notwithstanding the challenge to his locus standi as levied by the appellant.

5. For the aforesaid reasons, this appeal fails.

In the result, this appeal is dismissed.

Sd/-

THOTTATHIL B. RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

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