

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WA.No. 1211 of 2015 IN WP(C).14454/2015

AGAINST THE JUDGMENT IN WP(C) 14454/2015 DATED 12-05-2015

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APPELLANT/3RD PARTY :

JOBY VARGHESE AGED 33 YEARS
S/O.LATE VARGHESE, VEEPANATTU HOUSE, PAINGATTOOR P.O.
KOTHAMANGALAM.

BY ADVS.SRI.M.JITHESH MENON
SMT.K.INDU (POURNAMI)

RESPONDENTS/RESPONDENT & PETITIONER IN THE WPC :

1. SECRETARY
REGIONAL TRANSPORT AUTHORITY, IDUKKI, PIN - 676 505.
2. BENNY CHERIAN
MADAVANA HOUSE, EZHALLOOR P.O., THODUPUZHA - 685 605.

R1 BY SR.GOVERNMENT PLEADER, SRI.P.I. DAVIS
R2 BY SRI.SAJEEV KUMAR K.GOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 15-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

APPELLANT'S EXHIBITS:

ANNEXURE 1 : TRUE COPY OF THE PERMIT ISSUED TO THE APPELLANT.

ANNEXURE 2 : TRUE COPY OF THE PROCEEDINGS DATED 22.12.2014.

ANNEXURE 3 : TRUE COPY OF THE JUDGMENT IN WA NO.1704/2004
DATED 27.10.2004.

ANNEXURE 4 : TRUE COPY OF THE PROCEEDINGS DATED 22.12.2014.

ANNEXURE 5 : TRUE COPY OF THE REVISION PETITION IN MVARP NO.15/2015
DATED 24.01.2015.

ANNEXURE 6 : TRUE COPY OF THE ORDER IN MVARP NO.15/2015
DATED 03.02.2015.

ANNEXURE 7 : TRUE COPY OF THE NOTICE DATED 27.05.2015.

RESPONDENTS' EXHIBITS:

NIL

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 1211 OF 2015

Dated this the 15th day of June, 2015

JUDGMENT

Shaffique, J.

Heard learned counsel for the appellant, learned Government Pleader and learned counsel appearing for the 2nd respondent. This appeal is filed against the judgment dated 12.05.2015 passed in W.P.(C) No. 14454 of 2015.

2. The writ petitioner is a stage carriage operator operating the vehicle bearing registration No.KL-17/C-6831. He had a set of timings which is ought to be revised on the basis of Ext.P2 representation. The learned Single Judge, by the impugned judgment, directed the respondent authorities to consider Ext.P2 representation after giving notice to the petitioner and all affected persons within a period of one month. It is impugning the above judgment, a third party has filed this appeal after seeking leave of this Court.

3. According to the appellant, he is an existing operator with stage carriage having registration No.KL-40 4746. He submitted that on earlier two occasions, timing

conferences have been held with reference to the petitioner's vehicle; one on 22.12.2014 and other on 24.03.2015. In fact the timing was settled in respect of the petitioner in the meeting held on 24.03.2015 on the basis of a remand order by the State Transport Appellate Tribunal in MVARP No.15/2015. It is after hearing all the affected parties certain timing has been fixed and despite the time being fixed on 24.03.2015, a representation is seen submitted on 20.04.2015 (Ext.P2).

4. It is submitted by the appellant that there is no necessity to consider a representation for timing conference again and the remedy of the petitioner is to approach the competent authority by filing a revision. It is also submitted that the representation was submitted 27 days after the timing has been fixed by competent authorities. Learned counsel relies upon the judgment of this Court reported in **Krishnankutty v. John** [1992 (2) KLT 883] and **M.C. Kumaran v. K.M. Jacob and another** [1995 (1) KLJ 296] to support the contention that repeated applications for change of timings can not be entertained.

5. Learned counsel for the 2nd respondent however submits that a timing conference is fixed on 16.06.2015 to consider Ext.P2 representation of the petitioner which will be conducted after hearing all affected parties and it will not prejudice the appellant in any manner.

6. But the fact remains that on perusal of Ext.P2 representation we do find any fresh materials or change in circumstances which enables the petitioner to submit a fresh application or representation for change of timings. If the petitioner is aggrieved by the timings fixed by the competent authority, his remedy is to file revision before the State Transport Appellate Tribunal. Repeated applications and that too within a short span of time is not a justifiable action on the part of the petitioner and there is no reason for the competent authority to consider the same repeatedly.

7. Under such circumstances we are of the view that the learned Single Judge ought not to have entertained the writ petition by directing the authorities to consider Ext.P2 representation within a time frame.

In the result, we set aside the judgment of learned Single Judge and this appeal is allowed. However, the 2nd respondent is entitled to file revision before the competent authority.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**