

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

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

**WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937**

**WA.No. 1720 of 2015**  
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**AGAINST THE JUDGMENT IN W.P.(C).NO.17543 OF 2015, DATED 08-07-2015**  
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**APPELLANT(S)/PETITIONER :**  
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**JOSHY A.CHEMPARATHY,  
S/O.AUGUSTINE, CHEMPARATHICKAL HOUSE, HOUSE NO.19/197,  
MUTHALAKODAM, THODUPUZHA.**

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

**RESPONDENT(S)/RESPONDENTS :**  
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- 1. THE JOINT REGIONAL TRANSPORT OFFICER,  
THODUPUZHA-685 584.**
- 2. ASSISTANT MOTOR VEHICLE INSPECTOR,  
SUB REGIONAL TRANSPORT OFFICE, PUNALUR-691 305.**
- 3. SUB INDPECTOR OF POLICE,  
PUNALUR-691 305.**
- 4. THE TRANSPORT COMMISSIONER,  
TRANS TOWERS, VAZHUTHACAUD, THIRUVANANTHAPURAM-695 014**

**BY SR. GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05-08-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

**ASHOK BHUSHAN, C.J.**

**&**

**A.M.SHAFFIQUE, J.**

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**W.A.No.1720 of 2015**

.....

Dated this the 5<sup>th</sup> day of August, 2015

**JUDGMENT**

**A.M.Shaffique, J.**

The petitioner in W.P.(C) No.17543 of 2015 has filed this appeal challenging the judgment dated 08.07.2015, by which the learned single Judge has dismissed the writ petition. The writ petition was filed, inter alia, seeking for a direction to the 1<sup>st</sup> respondent/Joint Regional Transport Officer to accept the tax for the vehicle mentioned in Ext.P1 as specified in Ext.P2 circular or in Clause -11 of the Ext.P3 circular and also for a direction to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to release the vehicle mentioned in Ext.P5 on production of proof of payment of tax.

2. The facts involved in the writ petition would disclose that the vehicle belonging to the petitioner, a 2008 model tempo traveler bearing registration No.KL-33A-3336, has been purchased for using the same as a camper van for private use and ownership. He got transfer of the vehicle as on 13.06.2014 by the 1<sup>st</sup> respondent. The petitioner's requirement is to use the vehicle as camper van and therefore he made an application before the 1<sup>st</sup> respondent on 13.06.2014. Since the respondent authority did

not accept the application stating that the vehicle being a 20 seater cannot be registered as an omni bus for private use, the writ petition is filed.

3. Counter affidavit has been filed by the 1<sup>st</sup> respondent, inter alia, stating that the application dated 13.06.2014 was disposed of by Joint Regional Transport Officer as per proceedings dated 24.07.2014 and the same has been communicated to the petitioner/appellant by Ext.R1(a). The learned counsel for the appellant submits that the appellant did not receive the copy of Ext.R1(a).

4. Be that as it may, as long as the application of the appellant dated 13.06.2014 seeking for modification of the camper van and to accept the tax accordingly had already been rejected, we do not think that the petitioner is entitled for any relief as sought for in the writ petition. The remedy is to challenge Ext.R1(a) in appropriate proceedings.

5. The learned counsel for the appellant submits that, he is ready and willing to remit the entire arrears of tax as demanded by the transport authority under protest. Of course, in such an event the appellant will be in a position to get release of the vehicle.

Under such circumstances, we dispose of this appeal is as follows:

- i. The judgment of the learned single Judge is confirmed, reserving the liberty of the appellant to challenge Ext.R1(a) letter dated 24.07.2014 issued by the Joint Regional Transport Officer, Thodupuzha.
- ii. The vehicle of the petitioner shall be released on condition that the petitioner remits the tax as demanded by the competent authority.

Sd/-  
**ASHOK BHUSHAN, Chief Justice.**

Sd/-  
**A.M.SHAFFIQUE, Judge.**

AMV/07/08/

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P.A.TO JUDGE