

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 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WA.No. 2352 of 2015 ()

**-----
AGAINST THE JUDGMENT IN WP(C).NO.28845/2015 DATED 05-10-2015.**

APPELLANT/PETITIONER:

**ABDUL KAREEM, AGED 54 YEARS,
S/O. MUHAMMED, CHOLAPARAMBIL HOUSE,
ALIPARAMBA, ODAMALA P.O., VALAMKULAM,
PERINTHALMANNA.**

**BY ADVS.SRI.BINOY VASUDEVAN,
SMT.P.G.BABITHA.**

RESPONDENTS/RESPONDENTS:

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
MALAPPURAM-676 505.**

BY SR. GOVT. PLEADER SRI.C.R. SYAMKUMAR.

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.A.No.2352 of 2015

Dated this the 4th day of November 2015

J U D G M E N T

Ashok Bhushan, CJ

This writ appeal has been filed against the judgment dated 05/10/2015 in W.P.C.No.28845/2015, by which the writ petition filed by the appellant has been dismissed. Writ petition was filed by the appellant challenging Ext.P5, by which the Secretary, RTA issued an order with regard to revision of timing. The learned Single Judge observed that the petitioner did not file objection to the timings fixed, although three months' time was allowed to file objection against that timing. The learned Single Judge dismissed the writ petition permitting the petitioner to apply for revision of timing within one month.

2. The learned counsel for the appellant contends that although petitioner had a right of revision against the order Ext.P5, alternate remedy of revision is not a bar. Learned counsel for the appellant relied upon the judgment of the Apex Court in **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai [1998(8) SCC 1]**. It is submitted by the learned counsel

for the appellant that the Apex Court held that alternative remedy is not a bar for exercising writ jurisdiction. Hence the learned Single Judge ought to have considered the case on merits. He further relied upon the judgment of the learned Single Judge of this Court dated 21/11/2014 in W.P.C.No.2844/2014, Ext.P4. He submits that the action of the authorities was not in accordance with the directions issued by this Court regarding the manner of revision of timings to be effected by the authorities.

3. We have considered the submission of the learned counsel for the parties and perused the records.

4. There cannot be any dispute to the proposition that alternate remedy is not a bar for exercising writ jurisdiction of this Court. However, this Court shall entertain a writ petition despite the availability of alternate remedy on well known exceptions as has been noted by the Apex Court in **Whirlpool** (supra). The Apex court, in paragraph 20 of the judgment laid down the following.

“20. Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority

against whom the writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation."

5. The learned counsel for the appellant although contended that an order was passed in violation of the principles of natural justice, we do not find any substance in the said contention since the writ petitioner was given liberty to file an objection, which was not availed by the petitioner. The learned Single Judge had granted one month's time to the writ petitioner to apply for revision. In addition, writ petitioner has a right of revision against the order passed by the authority.

6. We do not find any error in the exercise of jurisdiction by the learned Single Judge in not entertaining the writ petition and disposing the same with the aforesaid direction. We find no ground to interfere with the judgment of the learned Single Judge. Hence this writ appeal is dismissed. It shall be open for the appellant to take all such pleas before the appropriate forum.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)
(sd/-)
(A.M.SHAFFIQUE, JUDGE)

True Copy

PA to Judge

jsr/04/11/2015

