

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WA.No. 2554 of 2015

AGAINST THE JUDGMENT DATED 13-11-2015 IN WP(C) 34073/2015.
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APPELLANTS/5TH RESPONDENT IN WP(C):

**THE SECRETARY,
TAXI DRIVERS CO-OPERATIVE SOCIETY LIMITED,
NO.T 412, KARAKULAM, THIRUVANANTHAPURAM.**

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENT(S)/RESPONDENTS 1 TO 4 & 6 AND PETITIONER IN THE WP(C):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY - 695001.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
THIRUVANANTHAPURAM-695001.**
- 3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM - 695001.**
- 4. THE JOINT REGISTRAR(GENERAL),
CO-OPERATIVE SOCIETIES, VAZHUTHAKKAD P.O,
THIRUVANANTHAPURAM - 695001.**
- 5. THE REGISTRAR,
STATE TRANSPORT APPELLATE TRIBUNAL,
DISTRICT COURT, ERNAKULAM-682011.**
- 6. THE COMMISSIONER OF POLICE, VAZHUTHAKKAD,
THIRUVANANTHAPURAM-695001.**

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- 7. THE GENERAL MANAGER,
DISTRICT CO-OPERATIVE BANK,
THIRUVANANTHAPURAM, FORT P.O,
THIRUVANANTHAPURAM-695001.**
- 8. KERALA STATE ROAD TRANSPORT CORPORATION,
FORT, THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING DIRECTOR.**

**R1 TO R6 BY SENIOR GOVT. PLEADER SRI.C.R.SYAMKUMAR
R7 BY SRI.T.R.HARIKUMAR, SC
R8 BY ADV. SRI.P.C.CHACKO, SC**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 27-11-2015
ALONG WITH WA.2562/2015 & CONNECTED CASES, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS' ANNEXURES:

- ANNEXURE A1 : TRUE COPY OF THE NOTIFICATION ISSUED BY THE GOVERNMENT UNDER SECTION 71(3) OF THE MOTOR VEHICLES ACT DATED 24.11.1994.
- ANNEXURE A2 : TRUE COPY OF THE TEMPORARY PERMIT ISSUED TO THE APPELLANT VALID UP TO 29.10.2015.
- ANNEXURE A3 : TRUE COPY OF THE RELEASING ORDER TO THE DEPUTY TAHSILDAR REGARDING THE ASSETS OF THE SOCIETY ON THE BASIS OF THE REMITTANCE OF AMOUNT DATED 30.3.2013.
- ANNEXURE A4 : TRUE COPY OF THE PROCEEDINGS OF THE JOINT REGISTRAR DATED 12.2.2014 SHOWING THAT THERE WAS MANAGING COMMITTEE.
- ANNEXURE A4(A) : ENGLISH TRANSLATION OF ANNEXURE A4.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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

W.A. No. 2554 of 2015, W.A. No. 2561 of 2015,
W.A. No. 2562 of 2015 and W.A. No. 2566 of 2015

Dated this the 27th day of November, 2015

JUDGMENT

Ashok Bhushan, CJ.

Heard both sides. These four writ appeals have been filed against the common judgment dated 13.11.2015 passed by learned Single Judge by which the writ petition filed by the Kerala State Road Transport Corporation has been disposed of.

2. The writ petitioners were registered Taxi Drivers Co-operative Society Ltd., having four permits on which they were rendering service. The permit was valid up to 29.10.2015. Before the expiry of the date of permit they have made an application for renewal which was rejected by the Transport Authority. Against which, the appeal was filed before the Kerala State Road Transport Appellate Tribunal. Along with the appeal, application for interim relief was also filed. In exercise of power under section 214 of Motor Vehicles Act, directed for granting of extension of permit for a period of two weeks,

which order was subsequently clarified by another order passed by the Tribunal on 31.10.2015. The Corporation filed writ petition challenging the order clarifying the earlier order dated 29.10.2015.

3. The Corporation's case was that they had already been granted temporary permit on 27.10.2015 , which was issued on 29.10.2015. Learned Single Judge, noticing the report of Joint Registrar of Co-operative Societies, who appeared before the learned Single Judge with relevant records, came to the conclusion that there was no justification for extending the permit for a period of two weeks pending hearing of the appeal. The interim order granted by the Tribunal was quashed on 13.11.2015. Learned Single Judge also made observations in paragraph 5, which is quoted below :

"5. The appeals-M.V.A.A. Nos.233,234, 235 and 236 of 2015 shall be disposed of untrammelled by the observations contained in this judgment. The same shall be done within a period of one month from the date of receipt of a copy of this judgment."

4. The Writ petitioner, aggrieved by the order of the learned Single Judge has come up in writ appeal. It is submitted that the Tribunal in exercise of its inherent power under section 214, has rightly granted extension of period of

two weeks. It is submitted that the petitioner is a co-operative society and continuous service is necessary for their existence and clearing debts. It is submitted that the co-operative society has tried and already made substantial payment, which were not noticed by learned Single Judge. It is submitted that their permit being current upto 29th November, there is no occasion for grant of temporary permit by the Corporation. It is further submitted that on 13.11.2015, there was no occasion for quashing the order which was not even prayed for to be quashed.

5. We have considered the submission of learned counsel for parties and perused the records. The appellate Tribunal has passed an order extending period of permit for two weeks in exercise of section 214. The Appellate Tribunal has while passing the interim order directed that records be called for so that the appeal may be decided. The extension of permit, which was granted by the appellate Tribunal has admittedly run out, which was only for two weeks. The appeal admittedly, pending before the Tribunal, the learned Single Judge has directed the appeals to be decided untrammelled by the observations in the judgment and the same shall be done

within a period of one month from the date of receipt of a copy of the judgment.

6. We are of the view that it is not necessary for us to enter into the issues raised in the appeal instead of giving liberty to the appellant to again press for the interim relief or asking the Tribunal to consider the application for interim relief. Interest of Justice will be served in directing the Tribunal to dispose of the appeals on merits as per the observations made by learned Single Judge in the judgment dated 13.11.2013.

We thus dismiss these appeals with the observation as made above.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M.SHAFFIQUE,
JUDGE