

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 54 of 2015 (F)

PETITIONER :

**IMMANUEL JOSEPH, AGED 58 YEARS,
KUZHATHOTTU HOUSE, CHETHIMATTAM, PALA P.O.,
KOTTAYAM DISTRICT**

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENTS :

- 1. THE REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM 686001, REPRESENTED BY ITS SECRETARY**
- 2. THE SECRETARY,
THE REGIONAL TRANSPORT AUTHORITY, KOTTAYAM 686001**
- 3. BOBBY GEORGE,
KANIYAMKUNNEL HOUSE, BHARANANGANAM, PALA 686578**

**R1 & R2 BY GOVERNMENT PLEADER SRI. R. RANJITH
R3 BY ADV. SRI.P.DEEPAK**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE REGULAR PERMIT IN RESPECT OF THE STAGE CARRIAGE BEARING REGISTRATION NO KL 05/ P 6444.
- EXHIBIT P2: TRUE COPY OF THE REGULAR PERMIT IN RESPECT OF THE STAGE CARRIAGE BEARING REGISTRATION NO KL 05 P 6030.
- EXHIBIT P3: TRUE COPY OF THE REGULAR PERMIT IN RESPECT OF THE STAGE CARRIAGE BEARING REGISTRATION NO KL 05 U 9081.
- EXHIBIT P4: TRUE COPY OFN THE DECISION OF THE IST RESPONDENT AT ITS MEETING HELD ON 03-06-2014 IN ITEM NO 12.
- EXHIBIT P5: TRUE COPY OF THE JUDGMENT IN WPC NO 26989 OF 2014 OF THIS HON'BLE COURT DATED 16-10-2014.
- EXHIBIT P6: TRUE COPY OF THE DECISION OF THE IST RESPONDENT AT ITS MEETING HELD ON 06-11-2014 IN ITEM NO 4

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

K. Vinod Chandran, J.

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W.P.(C)No.54 of 2015

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Dated this the 12th day of February, 2015.

JUDGMENT

1. Petitioner is an existing operator, who challenges the grant of a regular permit to the third respondent as per Ext.P6. Ext.P6 is the permit between Mundakayam-Pala-Kottaramattam. Admittedly, there is some overlap of notified routes. The contention of the petitioner is that Ext.P6 was passed, on the premise that, this Court had directed the Regional Transport Authority to issue the permit, as sought for, which direction is absent in Ext.P5.
2. The third respondent had approached this Court against Ext.P4. Ext.P4 was in partial consideration of his application at the first instance. The RTA noticed that Poonjar to Mundakayam, there is an ill-served area and hence, there should be more than two trips offered by the petitioner. There was also a direction to re-submit the application, by extending all the trips upto Mundakayam. That

direction was obviously to sub-serve the public need.

3. The third respondent approached this Court with a writ petition, contending that, since more than one trip to Mundakayam is not feasible, his application may be considered as such, without directing any modification. This Court merely directed that, the application be considered as it is. A reading of Ext.P6 would indicate that, the grant was made, on the premise that, this Court had directed passing of final orders without insisting for modification. That was not in tune with the tone and tenor of Ext.P5 judgment. Ext.P5 only directed consideration of the application.
4. In any event, as noticed herein above, Ext.P4 was an order passed directing modification so as to sub-serve the public need of providing more service through ill-served route. If modification was not submitted, even then, the RTA could have issued the permit with conditions of more service to Mundakayam. That would have been a condition of the permit, for the operation of which, the

permit-holder would be obliged to comply with. The statutory remedies would also have been available against such an order.

5. However, noticing the fact that the RTA has gone on the premise that the High Court has directed grant without a modification, Ext.P6 would stand set aside. The RTA should consider the application afresh within a period of two weeks. If the RTA is not convened within a period of two weeks, then the same shall be considered on circulation, especially since, the Field Officer's report and all other necessary details would be available with the RTA. There would be no reason why objection should be considered at the time of grant and if at all there is objection, only an objectionable overlap of notified route need be considered. In the circumstances, Ext.P6 would stand set aside and the application shall be considered afresh, as directed.
6. There is an argument addressed that the petitioner does not have a *locus standi*, since rival operator cannot object to a grant. Learned

counsel for the respondent would rely on a Full Bench decision of this Court **Binu Chacho v. Regional Transport Authority, Pathanamthitta (2006(2) KLT 172)**, wherein it is stated that the grant of a permit cannot, in all circumstances, be challenged by a rival operator. Learned counsel for the petitioner, however, submits that the same has been clarified by a larger Bench decision in **Ratheesh M.C. v. Secretary, Regional Transport Authority (2015 (1) KHC 69)**, wherein it has been stated that, if the grant is in violation of the Act and Rules, the existing permit-holder would have *locus standi*.

Writ petition is disposed off.

K. Vinod Chandran, Judge.

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