

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 1144 of 2015 (P)

PETITIONER(S):

**BEERAN KOYA, AGED 60 YEARS,
S/O.MOIDEEN KOYA, RESIDING AT NAZEEB HOUSE,
EXHIBITION ROAD, WEST HILL P.O., KOZHIKODE,
PIN - 673 005.**

**BY ADVS.SRIP.S.SUJETH
SMT.M.R.REENA**

RESPONDENT(S):

- 1. THE TRANSPORT COMMISSIONER,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. THE REGIONAL TRANSPORT OFFICER,
KOZHIKODE, KOZHIKODE DISTRICT, PIN - 673 032.**

BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 1144 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. TRUE COPY OF TEMPORARY REGISTRATION OF VEHICLE,
DATED 09.12.2014.**

EXHIBIT P2. TRUE COPY OF SALE CERTIFICATE OF THE VEHICLE DATED 09.12.2014.

**EXHIBIT P3. TRUE COPY OF APPLICATION FILED UNDER SEC.76 OF THE MOTOR
VEHICLE ACT, DATED 24.12.2014.**

**EXHIBIT P4. TRUE COPY OF PERMIT ISSUED BY THE AUTHORITY TO OTHER PERSON
IN RESPECT OF THE SAME TYPE OF VEHICLE DATED 14.11.2014.**

**EXHIBIT P5. TRUE COPY OF INSURANCE CERTIFICATE ISSUED BY THE ORIENTAL
INSURANCE COMPANY, DATED 09.12.2014.**

**EXHIBIT P6. TRUE COPY OF POLLUTION CERTIFICATE ISSUED BY THE COMPANY
ALONG WITH THE VEHICLE.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K.Vinod Chandran, J.

W.P.(C).No.1144 of 2015-P

Dated this the 13th day of January, 2015

JUDGMENT

The petitioner, owner of a “**Isuzu D max Space Cab**”, presented his vehicle for registration as a non-transport private vehicle. The 2nd respondent refused to register the same on the ground that it is a transport vehicle. The petitioner contends that the issue is no longer *res integra* in view of the authoritative pronouncement of this Court in ***Cheriyon v. Transport Commissioner* [2009 (2) KLT 583]**.

2. In ***Cheriyon's case*** (*supra*) this Court had declared that with respect to vehicles which are constructed and adapted for carriage of goods and carriage of passengers, the primary aspect to be considered is the use to which it is put. It was also declared that, if the vehicle in question is a Light Motor Vehicle, then the registration ought to be granted in that category and not as a goods carriage, if it is not intended to be used as a goods carriage. It was also clarified that if at all the vehicle was used other than for the purpose for which it was registered, then it was

open to the authorities to re-classify the vehicle as a Transport Vehicle.

3. In the present case, the petitioner declares that she intends to use the vehicle for her personal needs. The definition of 'goods carriage' and 'transport vehicle' in sub-sections (14) and (47) of Section 2 of the Motor Vehicles Act, 1988 assumes significance.

(14) “Goods carriage” means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.

(47) “Transport vehicle” means a public service vehicle, a goods carriage, an education institution bus or a private service vehicle”.

4. There is nothing on record to show that the petitioner sought for registration as a non-transport vehicle and the same was declined by the registering authority. Ext.P1 Temporary Certificate of Registration shows that the class of vehicle as item No.“5” which; as per the Schedule to the Kerala Motor Vehicles Taxation Act, 1976, is a 'private service vehicle', which belongs to the category of transport vehicle as distinguished from item No.“6” “Private Service Vehicle for personal use (Non-Transport)”. The

vehicle itself has a seating capacity of only 'two' and has an open carriage to carry goods. Ext.P2 sale certificate also indicates that the class of vehicle as described by the dealer and manufacturer is "LMV Goods Carrier Truck". The specific contention in the writ petition is that the petitioner requires the vehicle for private use. That, however, will not take it away from the classification as a 'goods carriage'. Definitely the purpose for which the vehicle is intended to be put to use is carriage of goods. It is very clear that after seeking temporary registration of the vehicle as a goods vehicle, the petitioner on coming to know of the orders passed by this Court, has approached this Court with the claim of registration as a non-transport vehicle. On the facts disclosed from the averments in the writ petition ***Cheriyian's case*** (*supra*) is not applicable in the instant case and in any event the said decision has been overruled in W.A.No.1757 of 2013 & connected cases, by judgment dated 09.01.2015.

The writ petition, hence, is dismissed.

Sd/-

K.Vinod Chandran
Judge

vku/-

(true copy)