

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 1339 of 2015 (N)

PETITIONER(S):

**ANIL KUMAR S.,
S/O.SIVANANDAN, ANUPAM,
T.K.M.C. P.O., KOTTAMKARA,
KOLLAM - 5.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

**THE SECRETARY, REGIONAL TRANSPORT AUTHORITY,
KOLLAM - 691 001.**

BY SENIOR GOVERNMENT PLEADER SRI.BIJU MENNATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 1339 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE APPLICATION WITH CHALLAN.

EXT.P2: TRUE COPY OF THE JUDGMENT IN WP(C) NO.10502 OF 2014 DATED 8.4.2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

K. VINOD CHANDRAN, J.

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W.P.(C) No.1339 of 2015 - N

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Dated this the 14th day of January, 2015

J U D G M E N T

The petitioner is a stage carriage operator in the route Kollam - Kundara Mukkada. The permit was issued to his stage carriage bearing registration No.KL-11/AA-2269. He obtained clearance certificate with respect to the above vehicle and thereafter he sought for replacement of the vehicle by Ext.P1 by producing the records of stage carriage bearing registration No.KL-3/J-3864. However, the Secretary, RTA has rejected the application for replacement and declined to grant the same on the ground that the outgoing vehicle is older than the one sought to be replaced.

2. This Court had considered the said issue in W.P(C) No. 3553/2013 dated 06.12.2013 and had held that though discretion is vested in the respondent under Rule

174(2) of the Kerala Motor Vehicle Rules, 1989 to assess the merits and demerits of a vehicle, it cannot be extended to merely looking at the model or date of registration of the vehicle. In such circumstances, Ext.P1 shall be reconsidered in accordance with law, without looking into the model, but only considering the viability of the said vehicle to be operated on the route in question.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.