

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 1961 of 2015 (U)

PETITIONER:

**SHIBU, S/O.ABRAHAM,
181, PUTHUPURAKKAL,
THRIKODITHANAM,
CHANGANACHERRY.**

BY ADV. SRI.P.DEEPAK

RESPONDENT:

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM - 686 001.**

BY SENIOR GOVERNMENT PLEADER MR.BIJU MENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 1961 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P-1: TRUE COPY OF THE PERMIT IS VALID TILL 10.8.2016.

EXT.P-2: TRUE COPY OF THE CLEARANCE CERTIFICATE DATED 16.10.2014.

EXT.P-3: TRUE COPY OF THE CERTIFICATE OF REGISTRATION NO.KL-3-H-5600.

**EXT.P-4: TRUE COPY OF THE COVERING LETTER DATED 17.1.2015 SUBMITTED
ALONG WITH THE APPLICATION FOR VARIATION.**

**EXT.P-5: TRUE COPY OF THE JUDGEMENT DATED 8.4.2014 IN WPC NO.10502 OF
2014.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J.

W.P.(C) No. 1961 of 2015

Dated this the 20th day of January, 2015

J U D G M E N T

The petitioner is a stage carriage operator in the route Changanacherry - Mallappally. The permit was issued to his stage carriage bearing registration No.KL-33/5285. He obtained clearance certificate with respect to the above vehicle and thereafter he sought for replacement of the vehicle by Ext.P4 by producing the records of stage carriage bearing registration No. KL-03/H-5600. However, the Secretary, RTA has declined consideration of the application for replacement 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.P4 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

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