

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 2172 of 2015 (V)

PETITIONER(S):

**JACOB GEORGE,
KARINGOZHACKAL HOUSE,
EZHACHERRY P.O., RAMAPURAM.**

BY ADV. SRI.I.DINESH MENON

RESPONDENT(S):

**THE SECRETARY, REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM - 686 002.**

BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 2172 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE JUDGMENT IN WP(C) NO.22146/2013 DATED 5.9.2013.

EXT.P2: TRUE COPY OF THE TEMPORARY PERMIT DATED 1.1.2015.

EXT.P3: TRUE COPY OF THE LEASE AGREEMENT DATED 30.12.2014.

EXT.P4: TRUE COPY OF THE APPLICATION FOR REPLACEMENT DATED 30.12.2014.

EXT.P5: TRUE COPY OF THE JUDGMENT IN WP(C) NO.32895/2014 DATED 9.12.2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K.VINOD CHANDRAN, J

W.P.(C).No. 2172 of 2015

Dated 21st January, 2015

JUDGMENT

The petitioner is a stage carriage operator on the route Pala-Koothattukulam. The permit was issued to his stage carriage bearing registration No.KL-35 C 2028. He obtained clearance certificate with respect to the above vehicle and thereafter, he sought for replacement of the vehicle by Ext.P4 by producing records of stage carriage bearing registration No.KL-2 T 5500. However, the Secretary, RTA has declined consideration of the application for replacement and 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).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.

Writ petition disposed of.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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