

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 2288 of 2015 (I)

PETITIONER :

**MUHAMMED ALI M.P.,
MELEPUNNOTH HOUSE,
MAVOOR, KOZHIKODE.**

BY ADV. SRI.I.DINESH MENON

RESPONDENT :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KOZHIKODE-673 001**

BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.2288/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PERMIT ISSUED TO PETITIONER.**
- P2 COPY OF THE REPLACEMENT APPLICATION DATED 29/10/2014.**
- P3 COPY OF THE JUDGMENT IN WP(C).NO.32895/2014 DATED 9/12/2014.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

K. VINOD CHANDRAN, J

W.P(C) No. 2288 of 2015

Dated this the 22nd day of January, 2015

J U D G M E N T

The petitioner is a stage carriage operator in the route Peringalam-Kozhikode-Areekode. The permit was issued to his stage carriage bearing registration No.KL11 Y 576. He obtained clearance certificate with respect to the above vehicle and thereafter he sought for replacement of the vehicle by Ext.P2 by producing the records of stage carriage bearing registration No. KL-11 T 5659. However, the Secretary, RTA has declined consideration of the application for replacement and on the ground that the vehicle which is sought to be replaced is a lesser in model to that of the outgoing vehicle.

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.P2 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)

jma

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P.A to Judge