IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C)No.3231 of 2015(D)

PETITIONER:-

UMMER CHEKINTAKATH, S/O.MOHAMMAD, AGED 53 YEARS, BUSINESSMAN, RESIDING AT 8/458, MUKLISA MANZIL, PERUVALATHUPARAMBA, P.O.IRIKKUR, PIN-670 593, KANNUR DISTRICT.

BY ADV.SRI.R.SURENDRAN

RESPONDENTS:-

1. **THE SUB REGIONAL TRANSPORT OFFICER, OFFICE OF THE SRTO, THALIPARAMBA, KANNUR-670 141.**
2. **STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, TRANSPORT DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
3. **THE TRANSPORT COMMISSIONER, TRANSPORT COMMISSIONERATE, TRANS TOWER, THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN

THIS WRIT PETITION (CIVIL) HAVIG BEEN FINALLY HEARD ON 17-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Prv/2.

WP(C)NO.3231 OF 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF INVOICE DATED 23-12-2014 ISSUED IN FAVOUR OF THE PETITIONER.

EXT.P2: TRUE COPY OF TEMPORARY REGISTRATION CERTIFICATE ISSUED BY THE RTO KOZHIKODE.

EXT.P3: TRUE COPY OF TAX LICENCE DATED 26-12-2014, ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.

EXT.P4: TRUE COPY OF THE RECEIPT DATED 26-12-2014 ISSUED BY THE FIRST RESPONDENT.

EXT.P5: TRUE COPY OF ORDER DATED 29-12-2014 ISSUED BY THE FIRST RESPONDENT.

EXT.P6: TRUE COPY OF FORM 21 SALE CERTIFICATE ON WHICH THE AMVI, THALIPARAMBA RECORDED HIS INSPECTION OF THE VEHICLE ON 19-1-2015.

EXT.P7: TRUE COPY OF RECEIPT DATED 23-1-2015 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.

EXT.P8: TRUE COPY OF ORDER DATED 28-1-2015 ISSUED BY THE FIRST RESPONDENT.

EXT.P9: TRUE COPY OF CIRCULAR NO.6 OF 2011 DATED 18-2-2011 ISSUED BY THE TRANSPORT COMMISSIONER, THIRUVANANTHAPURAM.

EXT.P10: TRUE COPY OF CIRCULAR NO.8 OF 2013 DATED 18-5-2013 ISSUED BY THE TRANSPORT COMMISSIONER, THIRUVANANTHAPURAM.

EXT.P11: TRUE COPY OF THE JUDGMENT DATED 25-05-2012 WPC.NO.10536 OF 2012 OF HIGH COURT OF KERALA.

EXT.P12: TRUE COPY OF JUDGMENT DATED 5-9-2012 IN W.A NO.1362 OF 2012 ON THE FILE OF HIGH COURT OF KERALA.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.A. TO JUDGE.

Prv/2.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 3231 of 2015

Dated this the 17th day of July, 2015

J U D G M E N T

The petitioner is seeking a direction to the respondents to refund the forfeiture of fee deposited for a fancy number of his vehicle.

2. The petitioner purchased a motor vehicle on 23.12.2014 from Kozhikode vide Ext.P1 invoice; and the vehicle was granted temporary registration on 23.12.2014 by the RTO, Kozhikode, which was valid till 21.01.2015 as per Ext.P2. On 23.12.2014, the petitioner remitted the motor vehicle tax as per Ext.P3; and on 26.12.2014, motor vehicle cess and other fees were also remitted. On 29.12.2014, as per Ext.P4, a sum of ₹50,000/- was remitted for reservation of registration number with the 1st respondent; and it was granted as per Ext.P5 order dated 29.12.2014. As per Ext.P5 order, the petitioner was granted three weeks' time for production of the vehicle, failure of which would result in cancellation of reservation

and forfeiture of the amount. On 31.12.2014, the petitioner got delivery of the vehicle from the dealer; and on 19.01.2015, the vehicle was produced before the 1st respondent for registration; and on the same day, the AMVI inspected the vehicle as per Ext.P6. However, the 1st respondent refused to allot the reserved number on the ground that the time of three weeks expired on 18.01.2015 (Sunday) and the computer system is not accepting registration of the vehicle, assigning the reserved number. Moreover, it is told that as per Circular Nos.6 of 2011, and 8 of 2013, the vehicle is to be produced within three weeks from the date of allotment, otherwise, the reservation and the amount would be lapsed. Hence, on 23.01.2015, the petitioner was constrained to apply afresh for the same number and remitted ₹50,000/- again as per Ext.P7; and it was granted as per order dated 23.01.2015 as evidenced by Ext.P8. Subsequently, the petitioner produced the vehicle again and the vehicle was registered assigning the reserved number. According to the petitioner, the production of the vehicle on 19.01.2015 itself was within three weeks from 29.12.2014 as stipulated in Ext.P5; and the cancellation of grant in favour of the petitioner as per Ext.P5 and forfeiture of the amount of ₹50,000/- remitted as per Ext.P4 are illegal. The petitioner points out that this Court, as per Exts.P11 & P12 judgments, has already held that stipulation of three weeks' time for production of vehicle from the date of grant is ultravires to the Motor Vehicles Act and Rules. The petitioner alleges that he was illegally denied registration in spite of production of the vehicle and he was constrained to apply afresh remitting the required amount again. Hence, according to the petitioner, he is entitled to get refund of the amount of ₹50,000/- remitted as per Ext.P4. It is with this background, the petitioner has come up before this Court.

3. In the counter affidavit filed by the 1st respondent, it is stated that the petitioner applied for reservation of fancy no.KL 59 K 5555; and he submitted the application on 26.12.2014; and the number was allotted on 29.12.2014; and proceedings were issued

stating that “No other application has been received for the reservation of KL 59 K 5555. Hence, the number was allotted to the petitioner; and he is requested to produce the vehicle for registration within three weeks along with the said order, failing which the allotment would be cancelled and the reservation fee would be forfeited. It is contended that the petitioner failed to produce the vehicle for inspection in the stipulated time; and hence, the reserved number became lapsed. According to them, since the number was allotted on 29.12.2014, the applicant can produce the vehicle for inspection within three weeks with effect from 29.12.2014. Hence, according to them, the stand taken by them is legal and is in accordance with law. As per Form 21 (Ext.P6) and temporary registration (Ext.P2), the vehicle was delivered on 02.12.2014; and the petitioner remitted the fee and tax in respect of the vehicle through online and submitted the application for reserving the fancy number, KL 59 K 5555 on 26.12.2014. It is pointed out that on 29.12.2014, the number was allotted to the petitioner; and as per Circular

No.06/2011 (Ext.P9), once the number is allotted, the petitioner shall produce the vehicle for registration within three weeks from the date of allotment of registration mark, failing which the sanction is liable to be dismissed and number shall be lapsed. It is further contended that no intimation regarding the lapse of reservation of registration mark shall be issued to the applicant; and the time limit of reservation number is already set in the software installed in the Motor Vehicles Department; and the number will automatically became lapsed after the stipulated time period. The same matter is already communicated to the petitioner on 29.12.2014 that the number would be lapsed within three weeks. According to them, the number was allotted to the petitioner on 29.12.2014; and the 21 days would be counted from 29.12.2014; and so, the argument raised by the petitioner is not in accordance with the exiting rules. The number allotted to the petitioner automatically lapsed on 19.01.2015 since the applicant failed to produce the vehicle for registration within the stipulated time allotted to the petitioner. On the date of allotment itself, it is requested to the petitioner that the vehicle should be produced within three weeks from the date of allotment, otherwise, the number would be lapsed and the amount would be forfeited. The petitioner failed to produce the vehicle in time, hence, the amount is forfeited, which was in accordance with law and the existing rules. Therefore, they have taken the stand that the action taken by them is in accordance with the existing rules, laws and circulars; and also, all the matter regarding the production of the vehicle was intimated to the applicant on the date of allotment itself.

4. Arguments have been heard.

5. It was as per Ext.P5, the petitioner was directed to produce the vehicle for registration within a period of three weeks along with the said order. Ext.P5 is dated 29.12.2014. As per the Rules of Interpretation, when a time limit is fixed from a particular date, the date, from which the time is to be computed, shall be excluded. Therefore, in the present case, the time of three weeks is

to be computed from the date of issue of Ext.P5 order, which is 29.12.2014; and hence, 21 days are to be counted excluding 29.12.2014. Therefore, it is evident that three weeks or 21 days would expire only after 19.01.2015. It is evident from Ext.P6 that the petitioner has produced the vehicle on 19.01.2015 as Ext.P6 bears an endorsement by AMVI that the vehicle was inspected on the said date. Therefore, the contention of the respondent that the petitioner has not produced the vehicle within the time limit prescribed in Ext.P5 will not stand.

6. The next question that has to be considered is whether the condition as to the one imposed as per Ext.P5 shall have the test of reasoning. This Court, as per Exts.P11 & P12 judgments, held that such a condition is arbitrary and ultravires the Motor Vehicles Act and Rules. Therefore, the fixation of time limit as per Clause 25 in Ext.P9 circular is of no authority of law.

In the result, the writ petition is allowed.

- It is hereby declared that the production of the petitioner's vehicle for registration on 19.01.2015 was sufficient compliance of Ext.P5 order.

- Ext.P4, by which an amount of ₹50,000/- (Rupees fifty thousand only) remitted by the petitioner forfeited is quashed.
- Respondents 1 & 2 are directed to refund the sum of ₹50,000/- (Rupees fifty thousand only) to the petitioner within a period of one month from the date of receipt of a copy of this judgment.
- In the event of the failure of payment within the aforesaid time, the amount shall bear interest at the rate of 12% per annum from 29.12.2015 till the date of refund.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-