

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 3836 of 2015 (D)

PETITIONER :

**K.H.SUBAIR,
KIZHAKKEANJIKKATTU HOUSE, KANGARAPPADY P.O.,
VADACODE, KOCHI.**

BY ADV. SRI.P.DEEPAK

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM-682 030.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM-682 030.**

R1 & R2 BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 3836 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE REPORT OF THE MVI, THIRUPUNITHURA, DTD. 25.7.2014.**
- P2 : COPY OF THE DECISION OF THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM, DTD. 5.8.2014.**
- P3 : COPY OF THE JUDGMENT DTD. 21.2.2014 IN WPC NO.27428 OF 2014.**
- P4 : COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DTD. 11.11.2014.**
- P5 : COPY OF THE JUDGMENT IN MVAA NO.264 OF 2014 DTD. 9.12.2014.**
- P6 : COPY OF THE DECISION OF THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM DTD. 30.10.2014, SIGNED FOR COMMUNICATION ON 15.1.2015.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.S.TO.JUDGE

sts

K. Vinod Chandran, J.

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W.P.(C)No.3836 of 2015

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Dated this the 10th day of February, 2015.

JUDGMENT

1. Petitioner is aggrieved with the order at Ext.P6, insofar as the petitioner asserts that the counsel has not offered any consent to modify the trips to satisfy the request for introducing more trips to Medical College. Learned counsel, who appeared before the Regional Transport Authority, appears before this Court and submits that he had not made any such concession. In such circumstances, the RTA would have to consider the application on the terms available in the regular permit application itself. However, the learned counsel would seek for consideration of the temporary permit application also, at Ext.P5.
2. The background facts to be briefly noticed is that, the petitioner had applied for a regular permit between Pampakuda-Tripunithura Medical College. A report was called for, wherein it was

categorically stated that, there were no sufficient services available to the medical college. Despite the above report of the Field Officer, the temporary permit application was not considered in the route in which a regular permit application was pending. Petitioner approached this Court and by Ext.P3, that was directed to be considered. The same was rejected by Ext.P4, which was challenged in appeal.

3. The reasons stated in Ext.P4 are; (1) an application for temporary permit cannot be considered when the regular permit application is pending; (2) the vehicle offered in the temporary permit on the route in which the regular permit application is pending, was already operating on a temporary permit in another route, viz., Pampakuda-Kaloor. By Ext.P5, the Tribunal found that, both the above reasons are not sustainable.
4. With respect to the ground that no temporary permit application could be considered, it was found that, that was a situation available,

when the earlier Act was in force. As to the next objection regarding the vehicle being operated in another temporary permit, the RTA relied on a decision in **Ahammed v. Regional Transport Authority (2002 (3) K.L.T. 374)**. The Tribunal found that a Division Bench has overruled the said decision in **Ahammed v. Regional Transport Authority (2003(1) K.L.T. 19)**. The aforesaid decision of the Division Bench unequivocally laid down that rejection of grant of permit on the ground that the vehicle offered is having a regular permit is unsustainable.

5. Learned counsel would contend that, if the regular permit in which the vehicle was operated expires or the permit itself is surrendered, then, there would be no impediment in considering the application for temporary permit with respect to such a stage carriage. Definitely, a vehicle operating in a regular permit, cannot be defaulted and produced for obtaining a temporary permit in another route, especially during the validity of the earlier regular permit.

However, in the present case, it is to be noticed that, the earlier rejection made was set aside by the Tribunal and the matter remitted for consideration as per Ext.P5. Ext.P5 directed issuance, if otherwise eligible. In such circumstances, definitely, the temporary permit application would have to be considered on the terms in Ext.P5 as laid down by this Court in **Thomas v. Regional Transport Authority (2004 (2) KLJ 451)**. The said consideration, as per the Tribunal's order, shall be made, at any rate, within a period of two weeks from today. The regular permit application shall be considered on its own terms and no modification can be insisted by the authority, if the applicant is not ready for the same.

Writ petition is disposed off.

K. Vinod Chandran, Judge.

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