

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 5005 of 2015 (A)

PETITIONER:

RAJENDRA BABU, THODIYIL VEEDU, KURUMANDAL
PARAVOOR (VIA), KOLLAM.

BY ADV. SRI.G.HARIHARAN

RESPONDENTS:

1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, KOLLAM-691001.

2. FAIZAL,
OASIS, KALLUMTHAZHAM, KOLLAM - 691001 .

SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-02-2015 ALONG WITH W.P.(C) NO.5011/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C).No. 5005 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 TRUE COPY OF THE PERMIT OF THE PETITIONER

EXT.P2 TRUE COPY OF THE PROCEEDINGS DATED 22.12.2014

EXT.P3 TRUE COPY OF THE NOTICE OF TIMING CONFERENCE ISSUED ON
7.2.2015

EXT.P4 TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER BEFORE
THE 1ST RESPONDENT DATED 10.02.2015.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

SMV

K.VINOD CHANDRAN, J

W.P.(C) No.5005 & 5011 of 2015

Dated this the 18th day of February, 2015

JUDGMENT

The petitioners, in both the above writ petitions, are rival parties. They challenge the timing conference scheduled, to revise the timing of one of them. The revision proposed is said to be in accordance with Circular No.D3/875/STA/2005. Faizal, whose timings are to be revised contend that his vehicle carries mail and a revision would affect public interest. Rajendra Babu, a rival operator seeks consideration of his objections.

2. Even now after judgment of this Court in W.P.(C) No.2844/2013 dated 21.11.2014, piecemeal settlement of timings as per D3 circular is going on. This Court finds it appropriate to *suo motu* implead the Transport Commissioner in the above writ petition. The Transport Commissioner is impleaded as the additional second

respondent herein.

3. This Court had in W.P.(C) No.2844/2013 specifically considered the effect of D3 circular and held that it postulates implementation on a particular date as notified by the State Transport Authority (for short, STA). The circular also contemplates revision of timings of all stage carriages by the Secretaries of the respective Regional Transport Authority (for short, RTA), in their jurisdictions in accordance with D3 circular and intimation of such revision having been made, for all stage carriages, to the State Transport Authority. Only on such intimation being received from all the RTAs in the State; would the STA consider notifying a date of implementation. This was specifically directed in the above writ petition. However the STA, the Transport Commissioner, RTAs and their Secretaries seems to be unaware of the judgment passed by this Court and the true import of D3 circular.

4. It is submitted by counsel that there is broad

discrepancy in the timing schedule to various stage carriages; since in many districts revision in accordance with D3 has been carried out to some of the stage carriages and they are already operating in such revised timings. There is a further anomaly in so far as, the settlement of timings in fresh regular permits are in accordance with D3 circular; while the existing stage carriage permits continue as per the earlier time rates. D3 circular has been brought out in the year 2011, specifically 08.11.2011 in compliance of a judgment of this Court in O.P No.12774/1997 dated 17.5.2005.

5. After three years of the issuance of the circular nothing seems to have been done towards the implementation by the State Transport Authority nor are the RTAs concerned. The implementation is to be made, in a phased manner; but however to all the services operating within the State in a uniform manner. A copy of this judgment along with judgment in W.P.(C) No.2844/2013

dated 21.11.2014 shall hence, be forwarded to the Transport Commissioner, by the Registry. The Transport Commissioner is directed to look into the matter and bring it to the notice of the State Transport Authority, so as to decide on the implementation of D3 expeditiously and issue necessary directions to the Regional Transport Authorities within the state.

6. With respect to the aforesaid writ petitions, Faizal, does not have any objection in the revision but however contends that no implementation can be made on the basis of D3, since the date for implementation is yet to be notified by the STA. Rajendra Babu contends that Faizal was issued with a timing, which was withdrawn and without challenge to the withdrawal of timings, he cannot seek revision. Faizal however contends that he has not sought for the revision. In any event no revision of timings even made in accordance with Ext.P3 circular can be implemented as of now. The revision now attempted on the basis of D3 circular, to the

timings settled on Faizal would be subject to the notification of the date of implementation of D3 circular. The objection of Rajendrababu as also Faizal shall be considered before the timings are so settled in accordance with D3. Faizal shall be permitted to operate in accordance with Ext.P2 till D3 is implemented.

Writ petitions are disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

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P.A. to Judge

smv