

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 5054 of 2015 (F)

PETITIONER :

**DILIP,
S/O.SALIM KUMAR, NO.466,
KALLIDUKKANACKAL HOUSE
MUTHOLY, KOTTAYAM.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S) :

- 1. PALA MUNICIPALITY
REPRESENTED BY ITS SECRETARY,
PALA - 686 575.**
- 2. THE CHAIRMAN,
PALA MUNICIPALITY,
PALA - 686 575.**
- 3. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
PALA 686 575.**

***ADDL. R4 IMPEADED**

***ADDL.R4. THE REGIONAL TRANSPORT AUTHORITY
KOTTAYAM – 686 001.**

***IS IMPEADED AS PER ORDER DATED 3/3/2015 IN IA NO. 2996/2015.**

**R1 & R2 BY ADV. SRI.V.M.KURIAN, SC
R3 & R4 BY GOVT. PLEADER SMT. K.A. SANJEETHA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 5054 of 2015 (F)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1: TRUE COPY OF THE PERMIT ISSUED BY THE 3RD RESPONDENT.

**EXT. P2: TRUE COPY OF THE PROCEEDINGS DATED 9/2/2015 ISSUED BY THE
 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 5054 of 2015

Dated this the 4th day of June, 2015

J U D G M E N T

Ext.P2 proceedings issued by the 2nd respondent is under challenge.

2. The petitioner is the registered owner of an autorikshaw bearing No.KL 35 B/1189, which is having permit issued by the 3rd respondent to operate on all routes in Kottayam district subject to condition that the vehicle shall not park or pick up passengers within the city. The petitioner alleges that he is driver by profession and he himself is operating the vehicle as self employment. In order to pick passengers from the town limit of Pala and also to park the vehicle near Kottaramattam bus stand, the petitioner moved an application before the 1st respondent. Though the said request was considered by the committee, they declined to grant permission to park the vehicle near Kottaramattam bus stand on account of the objection from

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some of the Standing Committee members. According to the petitioner, mere objection from some of the Standing Committee members is not a ground to deny the request by the petitioner. It is in this context, the petitioner has come up before this Court.

3. Heard the learned counsel for the petitioner, the learned Government Pleader and the learned Standing Counsel for the respondent municipality.

4. The learned Government Pleader submitted that permission was not granted to the petitioner on account of Ext.P2 proceedings issued by the standing committee.

5. The learned counsel for the petitioner, inviting my attention to Section 74(3) of the Motor Vehicles Act, which governs the grant of contract carriage permits, submitted that there is no notification issued by the Government limiting the number of autorikshaws in Pala.

6. Three wheelers are contract carriages. Therefore, without a notification issued by the Government limiting the number of autorikshaws within a

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particular area, the motor vehicle authorities cannot impose a condition as made in Ext.P1. Though it is submitted that Ext.P1 was issued in the light of Ext.P2, the standing committee also does not have a power to impose such a restriction. Therefore, this Court is of the view that the impugned orders call for an interference.

In the result, the writ petition is allowed.

Exts.P1 & P2 are quashed.

The 2nd respondent is directed to consider the request of the petitioner for parking his three wheeler near Kottaramattam bus stand and for permitting him to pick passengers from Pala Municipality. Formal orders to this effect shall be passed after affording the petitioner an opportunity of being heard, if he chooses.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-