

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 7150 of 2015 (P)

PETITIONER :

**HARILAL G.,
ETTIUCKAMURIYIL HOUSE,
CHIRAKKADAVU EAST, KOTTAYAM.**

BY ADV. SRI.I.DINESH MENON

RESPONDENT :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM - 686 002.**

BY SR. GOVT. PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 7150 of 2015 (P)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1: TRUE COPY OF THE REGULAR PERMIT ISSUED TO THE PETITIONER.**
- EXT.P2: TRUE COPY OF THE TEMPORARY PERMIT ISSUED TO THE
PETITIONER.**
- EXT.P3: TRUE COPY OF THE R.C. BOOK OF THE VEHICLE KL-6 D 9858.**
- EXT.P4: TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER
BEFORE THE RESPONDENT DATED 10.9.2014.**
- EXT.P5: TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.26373/2014 DATED
10.10.2014.**
- EXT.P6: TRUE COPY OF THE ORDER IN I.A. NO.1936/2015 IN W.P.(C).
NO.26373/2014 DATED 9.2.2015.**
- EXT.P7: TRUE COPY OF THE REQUEST DATED 3.3.2015.**
- EXT.P8: TRUE COPY OF THE PROCEEDINGS DATED 6.11.2014.**
- EXT.P9: TRUE COPY OF THE COMMUNICATION DATED 13.2.2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J

W.P(C) No.7150 of 2015 P

Dated this the 09th day of March, 2015

J U D G M E N T

A unique situation, in which the stage carriage operator had brought back the vehicle, and produced its current records, in a regular permit, after obtaining clearance certificate, keeping the permit under suspended animation has come to be agitated in the above case.

2. The petitioner was running a stage carriage in a regular permit, evidenced at Ext.P1. The permit was valid up to 31.05.2014. The petitioner's renewal application was considered and granted by Ext.P8. The vehicle which was running in the permit and which was granted renewal had registration No.KL 6 D 9858.

3. The petitioner prior to the renewal itself, sought for clearance certificate, which was granted as per Ext.P5. The permit was permitted to be kept in

abeyance and the petitioner was directed to produce the current records of another vehicle within four months by Ext.P5 judgment, passed on 10.10.2014. The time granted in Ext.P5 stood extended by one month on 09.02.2015. Hence the petitioner had to produce the current records of a vehicle before 08.03.2015. The petitioner not being able to get another vehicle, produced the very same vehicle for which the clearance certificate was granted. The authority refused to consider the very same vehicle on the ground that the petitioner had already obtained clearance certificate for the vehicle.

4. It is to be noticed that there is no provision in the Motor Vehicles Act, 1988 for issuance of clearance certificate by keeping the permit in suspended animation. Clearance certificate is one which evidences that the vehicle has no pending dues to the Department as per the Central Motor Vehicles Rules. In withdrawing the vehicle which has been endorsed in the permit and for

subsequent sale of the same, definitely, the registered owner of the vehicle has to obtain a clearance certificate.

5. Keeping the permit in suspended animation and issuing clearance certificate is a judicially evolved measure to facilitate replacement of vehicles in a regular permit so that the permit itself need not be surrendered. It facilitates the permit holder to produce another vehicle within a reasonable time.

6. The learned Government Pleader submits that often a clearance certificate is sought for, on the ground that the vehicle is not road worthy. However, it is to be noticed that even a later model vehicle could be withdrawn and an older vehicle brought in so long as the vehicle sought to be brought in has a fitness certificate. In certain circumstances, permit holder may not be able to procure a new vehicle. Then, there would be absolutely no difficulty, in re-presenting the very same vehicle even if it was withdrawn as not being road

worthy. The permit holder could make necessary repairs and produce the subject vehicle. If there is a valid fitness certificate, then nothing prohibits the authority from considering such prayer. Often vehicles removed from one route is produced for service in another route. No prohibition as such is discernible from the provisions of the Act and Rules.

7. What would be required, is the examination of the current records of the vehicle, including fitness certificate. That definitely has to be done by the authority. However, no blanket interdiction can be made that a vehicle which had been removed from a route after obtaining clearance certificate cannot be introduced in another service or reintroduced in the very same route. In such circumstance, the petitioner's request for consideration of the earlier vehicle itself to be endorsed in the permit shall be taken back to the files and considered afresh in accordance with law, and in

accordance with the observations made herein, within a period of three weeks.

Writ petition is disposed of.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge