

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 7359 of 2015 (T)

PETITIONER(S) :

1. AUTO RISKCHAW THOZHILALI UNION (B.M.S)
POOCHAKKAL, CHERTHALA, ALAPPUZHA,
REPRESENTED BY CONVENER VINOD D.
2. AUTO RICKSHAW THOZHILALI UNION (I.N.T.U.C) POOCHAKKAL,
CHERTHALA, ALAPPUZHA, REP. BY CONVENER ANAS K.A.

BY ADV. SRI.ALEXANDER PETER

RESPONDENT(S):

1. DISTRICT COLLECTOR, ALAPPUZHA,
OFFICE OF COLLECTORATE, ALAPPUZHA-688 001.
2. DISTRICT SUPERINTENDENT OF POLICE,
OFFICE OF DISTRICT SUPERINTENDENT OF POLICE, ALAPPUZHA-688 001.
3. REGIONAL TRANSPORT OFFICER,
OFFICE OF REGIONAL TRANSPORT OFFICE, ALAPPUZHA-688 001.
4. SUB INSPECTOR OF POLICE, POOCHAKKAL
POLICE STATION, POOCHAKKAL, SUB INSPECTOR POLICE STATION,
POOCHAKKAL, ALAPPUZHA DISTRICT-688 566.

* ADDITIONAL R5 & R6 IMPEADED

5. NASEEB K.A,
KEEPARAMBU, TRICHATTUKULAM P.O., CHERTHALA,
ALAPPUZHA - 688 559.
6. SIRAJ C.A,
CHATHANATTU (H), VADUTHALA JETTY PO., CHERTHALA, PIN- 53.

* ADDITIONAL R5 AND R6 ARE IMPEADED AS PER ORDER DATED 17.03.2015 IN
I.A.NO.3756 OF 2015.

R1 TO R4 BY GOVERNMENT PLEADER SRI.K.K.SAIDALAVI
ADDL.R6 BY ADV. SRI.R.DIVAKARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-07-2015, ALONG WITH W.P.(C).NO.12660 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1:** PHOTOCOPY OF THE CERTIFICATE OF REGISTRATION OF AUTO RICKSHAW KL-07-BJ-6769 OWNED BY 1ST PETITIONER.
- EXHIBIT P2:** PHOTOCOPY OF THE CERTIFICATE OF REGISTRATION OF AUTO RICKSHAW KL-32-E765 OWNED BY 2ND PETITIONER.
- EXHIBIT P3:** PHOTOCOPY OF THE CONTRACT CARRIAGE PERMIT ISSUED TO THE 1ST PETITIONER VINOD FOR HIS AUTO RICKSHAW KL-07-BJ-6769 PERMITTING TO PLY FROM PERUMBALAM JUNCTION.
- EXHIBIT P4:** THE PHOTOCOPY OF THE CONTRACT CARRIAGE PERMIT ISSUED TO THE 2ND PETITIONER KL-32-E-765 TO PLY FROM KOMBANAMURI.
- EXHIBIT P5:** THE PHOTOCOPY OF THE JUDGMENT DATED 24.02.2014 IN W.P.(C).NO.30009/2013.
- EXHIBIT P6:** THE PHOTOCOPY OF THE ORDER OF THE FIRST RESPONDENT DISTRICT COLLECTOR ALAPPUZHA TO ALLOW THE AUTO TAXI'S TO PARK IN THE AUTO STAND ALONG WITH AUTO RICKSHAWS AND ALLOW THEM TO PLY ALONG WITH AUTO RICKSHAWS BASED ON THE JUDGMENT IN W.P.(C).NO.30009/2013 OF THE HON'BLE HIGH COURT.
- EXHIBIT P7:** THE PHOTOCOPY OF THE JUDGMENT DATED 19.02.2015 IN W.P.(C).NO.30608/2014.
- EXHIBIT P8:** THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY ADV.ALEXANDER PETER ON BEHALF OF THE PETITIONERS TO THE RESPONDENTS 1 TO 4.
- EXHIBIT P9:** THE PHOTOCOPY OF THE ACKNOWLEDGEMENT CARDS SHOWING THAT THE RESPONDENTS RECEIVED THE REPRESENTATION OF THE PETITIONERS SENT BY THE ADVOCATE ON THEIR BEHALF.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J

WPC Nos.7359 & 12660/2015

Dated this the 27th day of July, 2015

JUDGMENT

These writ petitions relate to the parking of auto taxis within the local limits of Arookutty Grama Panchayat.

2. WPC No.7359/2015 is filed by the Autorickshaw Thozhilali union at Poochakkal. They are aggrieved by Ext.P6 order of the first respondent District Collector by which the auto taxis plying in Poochackal area were allowed to park along with the autorickshaws in view of the judgment of this Court in WPC No.30009/2013. The petitioners point out that the judgment in WPC No.30009/2013 do not allow auto taxis to park along with the autorickshaws in the various stands in Poochakkal area. According to them, no decision was given with regard to the right of auto taxis to park or halt in the autorickshaw stand. It was pointed out that the said decision is only related to Kalavoor area directing the Police to render necessary assistance to ensure that no

untoward incident happens on account of parking of such vehicles. The petitioners aggrieved by Ext.P6 order submitted Ext.P8 representation to respondents 1 to 3 to direct the 4th respondent to allow the petitioners and their members to park and ply the autorickshaws on their respective auto stands by virtue of contract carriage permit similar to Exts.P3 and P4 permits.

3. The grievance of the petitioners is that the respondents did not direct the auto taxis not to park and ply on the auto stands. It is with this background, the petitioners have come up before this Court.

4. WPC No.12660/2015 is filed by a group of auto taxi drivers and owners alleging that the Police are not allowing them to park and ply their vehicles in Kombanamuri junction in Arookutty Grama Panchayat in spite of Ext.P13 order of the first respondent.

5. I have heard the learned counsel for the petitioners, the learned Government Pleader and the learned standing counsel for the respondent Panchayat in the matter.

6. The learned standing counsel for the respondent Panchayat, inviting my attention to the counter affidavit filed by them in WPC No.12660/2015 would submit that there is a dispute between the drivers of autorickshaws and auto taxis regarding the parking of their vehicles. For redressing the dispute, the Panchayat committee has taken a decision to provide parking space for auto taxis on the southern side of Kombanamuri junction. This was subject to the approval of the transport authorities and the proposal was forwarded to the transport authorities on 24.4.2015 and the same is still pending.

7. On a specific query put by me during the course of the argument to the learned counsel for the respondent Panchayat as to whether the Panchayat had earmarked parking space for auto taxis in its local limit, the learned counsel answered in the negative.

8. The learned Government Pleader inviting my attention to the statement filed by the State in WPC No.12660/2015 stated that there is no mandatory provision in the Motor Vehicles Act to allot parking space

in the permit issued to each vehicle by the registering authority. It was also pointed out that the auto taxi owners have not made any written request before any authorities pointing out that the vehicles are not allowed to park in any place feasible for parking.

9. It could be discerned from the counter affidavit filed by the State that the auto taxis could be parked at any place having sufficient space subject to the rules of road regulations. Therefore, the stand taken by the petitioners in WPC No.7359/2015 that auto taxis shall not be permitted at the parking place of autorickshaws cannot be allowed.

As it is evident that the respondent Panchayat has proposed a particular area for parking of auto taxis and the same is pending before the authorities concerned, these writ petitions are disposed of directing the Regional Transport Officers of Alappuzha to consider the proposal now made by the respondent Panchayat permitting parking of auto taxis at the space on the southern side of Kombanamuri junction, after affording the petitioner as

well as the interested parties an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment. If ultimately, the RTA allocates a parking space of auto taxis, the parking of such vehicles shall be confined to that place only. However, till that exercise is completed, it shall be open to the auto taxis to park at places where space is available, however subject to Road Regulations, 1989.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE