

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10088 of 2015 (I)

PETITIONER(S):

**MUHAMMED KUTTY, S/O.MOITHEEN HAJI,
NALAKATH KALATHIL HOUSE, CHELEMBRA,
PULLIPARAMBA P.O., MALAPPURAM DISTRICT.**

BY ADV. SRI.O.D.SIVADAS.

RESPONDENT(S):

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KOZHIKODE-673 001.**

BY GOVT. PLEADER SRI.R. RANJITH.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 10088 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXT.P1 COPY OF THE PERMIT IN RESPECT OF STAGE CARRIAGE
NO.KL-04/Z-7306.**

EXT.P2 COPY OF THE PROCEEDINGS DATED 17/03/2015.

**EXT.P3 COPY OF THE JUDGMENT IN WP(C).NO.10502/2014
DATED 08/04/2014.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

K.VINOD CHANDRAN, J.

W.P.(C).No.10088 of 2015-I

Dated this the 31st day of March, 2015

J U D G M E N T

The petitioner is a stage carriage operator in the route Koonoolmadu-Kozhikode. The permit was issued to his stage carriage bearing registration No.KL-04/Z 7306, which is valid till 05/04/2019. The petitioner obtained clearance certificate with respect to the above vehicle, retaining the permit under suspended animation. Thereafter the petitioner sought for replacement of the vehicle, by producing the current records of vehicle bearing registration No.KL-11/R 6185, which was rejected by the respondent, by Exhibit P2. The reason stated for the rejection is that, the vehicle now offered is older than the one sought to be replaced.

2. This Court had considered the said issue in W.P.(C). No.3553 of 2013 dated 6.12.2013 and had held that though discretion

is vested in the respondent under Rule 174(2) of the Kerala Motor Vehicles Rules, 1989 to assess the merits and demerits of a vehicle, it cannot be extended to merely looking at the model or date of registration of the vehicle. In such circumstances, Exhibit P2 is set aside, to facilitate reconsideration in accordance with law, without looking into the model, but only considering the viability of the said vehicle to operate on the route in question.

Writ Petition is disposed of as above.

Sd/-
K.VINOD CHANDRAN,
Judge

jma

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P.A to Judge