

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 10190 of 2015 (W)

PETITIONER(S):

**KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN, FORT,
THIRUVANANTHAPURAM, REPRESENTED BY ZONAL OFFICER,
SASIDHARAN.**

BY ADV. SRI.P.C.CHACKO(PARATHANAM)

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
THRISSUR REPRESENTED BY ITS SECRETARY, PIN - 680 002.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, THRISSUR - 680 002.**
- 3. LIGESH,
S/O.KURIAN, KOLLAMPADIYIL HOUSE, MANTHAMANGALAM,
THRISSUR - 680 014.**

**R3 BY ADV. SRI.P.DEEPAK
R1 & R2 BY GOVERNMENT PLEADER SRI.K.A.SANJEETHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 10190 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 26.5.2014.

EXT.P-2: TRUE COPY OF THE RELEVANT PORTION OF THE DECISION OF THE FIRST RESPONDENT DATED 7.8.2014 AS ITEM NO.2.

EXT.P-3: TRUE COPY OF THE THRISSUR - PEECHI SCHEME DATED 1.2.1966 ISSUED BY THE GOVERNMENT OF KERALA PUBLIC WORKS (TRANSPORT B) DEPARTMENT.

EXT.P-4: TRUE COPY OF THE KERALA MOTOR VEHICLES RULES (STATE TRANSPORT UNDERTAKING) RULES 1960.

EXT.P-5: TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 28.2.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V.RAMAKRISHNA PILLAI, J

WPC No.10190 of 2015

Dated this the 29th day of May, 2015

JUDGMENT

Aggrieved by the granting of Ext.P2 permit and non-consideration of Ext.P5 application, the petitioner has come up before this Court.

2. The petitioner is a State Transport Undertaking established under Section-3 of the Road Transport Corporation Act, 1950. The third respondent applied for a regular permit on the route between Pattikkad and Amballur. The petitioner filed Ext.P1 objection before the first respondent stating that the proposed route objectionably overlaps 6 km. from Pattikkad to Vilangannur on the notified route between Thrissur and Peechi vide No.39494-TA 2/65/PW dated 1.2.1996. However, without considering the objection, the first respondent decided to grant permit to the third respondent on the above route as per Ext.P2 order. The

petitioner also stated that the granting of permit to the third respondent on the route between Pattikkad and Amballur is in violation of Ext.P3, Thrissur-Peechi scheme dated 1.2.1996. The petitioner alleges that Ext.P3 is issued in Form No.2 of Ext.P4 Kerala Motor Vehicles Rules (State Transport Undertaking) Rules, 1960 and when the scheme is published in Form No.2, it is a partial exclusion of the existing Road Transport service and there is no provision in the scheme for granting any new permit on the entire route or portion thereof to the private operators. It is further alleged that in Ext.P3 scheme, Column No.9 deals with the number of stage carriage proposed to be operated on the route by the private operators which is answered 'Nil'. Therefore, there is no provision for grant of any new permit on the route or portion thereof. It is also alleged that since the first respondent has granted many permits in violation of Ext.P2 scheme, the petitioner filed Ext.P5 application before the first respondent to cancel such permits which is issued to the private operators in violation of Ext.P2

scheme. However, the first respondent has not taken any action till now. One of the private operators, viz. O.K.George, Oliyampurath House, Chuvannamannu P.O. challenged Ext.P2 grant of permit by the first respondent in favour of the third respondent before this Court through Writ Petition No.34852 of 2014 wherein the operation of the implementation of Ext.P2 decision and the operation of service of the petitioner was stayed. The said writ petition is now pending before this Court. It is with this background the petitioner has come up before this Court.

3. I have heard the learned counsel for the petitioner and the learned counsel for the respondent who was one of the grantees of Ext.P2 permit.

4. The learned standing counsel for the petitioner Corporation confined his argument to the limited prayer for a direction to the first respondent to consider Ext.P5 application within the time frame. As WPC No.34852/2014 which was connected to this case has been dismissed as not pressed, at present, there is no stay against the 4th respondent.

5. The learned counsel for the 4th respondent would submit that since Ext.P2 permit was granted, after hearing other grantees also, in the event of giving a direction to the first respondent to consider Ext.P5, the other affected parties also be given an opportunity of being heard.

6. Recording the said submission, this writ petition is disposed of directing the first respondent to consider and pass appropriate orders on Ext.P5 application, after affording the petitioner, the second respondent and all other grantees affected by Ext.P2, an opportunity of being heard. This exercise shall be completed within a period of four months from the date of receipt of a copy of this judgment.

To facilitate an early action, it shall be open to the petitioner to produce a copy of this judgment and a copy of the writ petition before the first respondent.

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

css/

true copy

P.S.TO JUDGE