

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No. 10688 of 2015 (I)

PETITIONER :

**RIYA MARY MONCY, AGED 32 YEARS,
CHANDRATHIL HOUSE, PAMPAKUDA POST, ERNAKULAM DISTRICT**

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS :

**1. THE REGIONAL TRANSPORT AUTHORITY
ERNAKULAM - 682 030**

**2. THE SECRETARY
REGIONAL TRANSPORT AUTHORITY, ERNAKULAM - 682 030**

**3. K.C.JOY
KAKKANATTIL HOUSE, KALAMPOOR P.O, PIRAVOM 686 664.**

**R1 & R2 BY GOVERNMENT PLEADER SRI.T.R. RAJESH
R3 BY ADV. SRI.P.DEEPAK**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-06-2015, ALONG WITH WPC. 11904/2015, WPC. 14098/2015,
THE COURT ON 26-06-2015 DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: COPY OF THE PERMIT ISSUED TO THE PETITIONER
- EXHIBIT P2: COPY OF THE PROCEEDINGS DATED 19/5/1999
- EXHIBIT P3: COPY OF THER PROCEEDINGS DATRED 30/10/2014
- EXHIBIT P4: COPY OF THE PROCEEDINGS DATED 30/10/2014
- EXHIBIT P5: COPY OF THE REPORT OF THE FILED OFFICER DATED 28/8/2010

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) Nos. 10688, 11904 & 14098 of 2015

Dated this the 26th of June, 2015

J U D G M E N T

The issue in these writ petitions relates to the grant of temporary permit to the petitioner in WP(C) Nos.10688/2015 and 14098/2015 on the route, Koothattukulam - Ernakulam Kaloore Bus Stand.

2. In WP(C) No.10688/2015, the petitioner alleges that the respondent authority has committed illegality and irregularity in granting permit as well as a variation to the 3rd respondent, who is the petitioner in WP(C) No.11904/2015.

3. In WP(C) No.14098/2015, the petitioner alleges the 4th respondent in that writ petition (the petitioner in WP(C) No.11904/2015) obtained Ext.P5 interim order from this Court, suppressing material facts, on account of which, the granted permit was not issued to the petitioner. The petitioner alleges that a situation has

arisen, where the petitioner alone is prevented from conducting service on the route, where all other operators including respondents 4 to 32 are operating service without any difficulties.

4. As already pointed out, the person, who is arrayed as 3rd respondent in WP(C) No.10688/2015 and as 4th respondent in WP(C) No.14098/2015, has filed WP (C) No.11904/2015 alleging that the authority concerned has illegally issued temporary permit to the petitioner in those cases violating the scheme of nationalization; and therefore, there cannot be any reissue of permit. The petitioner apprehends that the 2nd respondent would reissue temporary permit to the petitioner in the aforesaid cases, who is arrayed as the 4th respondent in WP(C) No.11094/2015.

5. Arguments have been heard.

6. It was on 22.02.2015 that the Secretary of RTA, Ernakulam, has issued a temporary permit to the petitioner in WP(C) Nos.10688/2015 & 14098/2015 to

conduct service on the route, Koothattukulam - Ernakulam Kaloor Bus Stand; and the validity was for a period of 20 days from the date of issue. The said permit is produced and marked as Ext.P1 in WP(C) No.11904/2015. The said temporary permit was issued under Section 87(1)(c) of the Motor Vehicles Act, 1988. Evidently, the said permit was issued by the Secretary of the RTA, Ernakulam without jurisdiction as the above route objectionably overlaps the Ernakulam - Thekkadi notified route of KSRTC. A Division Bench of this Court in WA No.1943/2012 has observed that even a temporary permit cannot be granted in violation of Clause 5(c) of the approved scheme of nationalization dated 14.09.2007.

7. It is crucial to note that the Secretary himself has rejected an application for temporary permit on identical route filed under Section 87 on the ground that the proposed route overlaps the Ernakulam - Thekkadi notified route beyond the limit prescribed by the approved scheme. This is evident from Ext.P2 produced

in WP(C) No.11904/2015. The mere fact that the transport authority has illegally issued temporary permit violating the scheme of nationalization is not a ground to perpetuate the illegality once committed and there can be no issue of temporary permit in violation of scheme of nationalization.

Therefore, the petitioner in WP(C) Nos.10688/2015 & 14098/2015 is not entitled to get any relief as prayed for; and therefore, those writ petitions are dismissed.

WP(C) No.11904/2015 is allowed; and Ext.P1 in the said case is quashed. Respondents 1 and 2 are restrained from issuing any temporary permit to the 4th respondent in that writ petition on the route covered by Ext.P1.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-