

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 11308 of 2015 (K)

PETITIONER(S):

**RAJESH R. ,
S/O.P.R.RAMACHANDRAN, ASWATHY, KADIACKADU
KALLAKADAVU P.O, CHENGANNUR.**

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENT(S):

**THE SECRETARY, REGIONAL TRANSPORT AUTHORITY
ALAPPUZHA, PIN. 688 001.**

R BY GOVERNMENT PLEADER SRI. R. RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 11308 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE REGULAR PERMIT ISSUED TO THE
PETITIONER ON THE ROUTE KAYAMKULAM - THIRUVALLA VALID
UP TO 15.9.2014**
- EXT.P2 - TRUE COPY OF THE REPLACEMENT APPLICATION SUBMITTED BY
THE PETITIONER BEFORE THE RESPONDENT DATED 13.3.2015**
- EXT.P3 - TRUE COPY OF THE INTIMATION GIVEN BY THE RESPONDENT
DATED 21.3.2015**
- EXT.P4 - TRUE COPY OF THE G.O(P)NO.93/2014/TRANS. DATED 29.12.2014**

RESPONDENT(S)' EXHIBITS: **NIL**

// TRUE COPY //

PA to Judge

SB

K. VINOD CHANDRAN, J.
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W.P.(C) No.11308 of 2015 - K
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Dated this the 10th day of April, 2015

J U D G M E N T

The issue raised in the writ petition are covered by two decisions of this Court. The petitioner operates a stage carriage in a regular permit in the route Kayamkulam - Thiruvalla. The stage carriage endorsed in the permit was a 2014 model vehicle with 48 seats and the petitioner sought replacement with a 2014 model vehicle with 38 seats. The Regional Transport Officer intimated the petitioner by Ext.P3 that the matter will be placed before the RTA, by Ext.P3, since the replacement violates Rule 174 of the Motor Vehicles Rules of 1989 [for brevity "KMV Rules"] and since the vehicle is not owned by petitioner.

2. As far the registration being in the name of

another, the issue is covered by **Anilkumar v. R.T.A Kollam [2010 (1) KLT 758]** . Hence if the petitioner; is in valid possession of the vehicle, even on the strength of a lease agreement executed by the registered owner; would be entitled to get the vehicle endorsed in the permit.

3. The other objection with respect to violation of Rule 174 of the KMV Rules. It is to be noticed that the Note to sub-Rule (3) was set at naught by this Court for reason of it being incongruous to the intentment of introduction of the note, as discernible from the Explanatory note of the Amendment in W.P.(C) No.5728 of 2015 dated 13.03.2015 **Rapael Mathew v. Secretary, Regional Transport Authority, Thrissur.** Hence the said objection cannot survive.

4. The RTA or the RTO necessarily has to consider the application, in accordance with law and the binding precedent afore noticed. The consideration of the

application shall be made within a period of three weeks and it is declared that the objection in Ext.P3 cannot be sustained.

The above writ petition is allowed, the Secretary, RTA shall re-consider the issue on the strength of the aforecited precedents, a copy of which shall be produced by the petitioner before the authority, along with the certified copy of this judgment.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge