

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. 11672 of 2015 (H)

PETITIONER(S):

**ABOOBACKER, AGED 47 YEARS
S/O. PAREED, RESIDING AT THEMMAYATH HOUSE,
PALLILAMKARA, KALAMASSERY.**

BY ADV. SRI.P.DEEPAK

RESPONDENT:

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

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. 11672 of 2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 : TRUE COPY OF THE PERMIT VALID TILL 27.10.2017**
- P2 : TRUE COPY OF THE APPLICATION FOR REPLACEMENT DATED FILED ON 06.04.2015.**
- P3 : TRUE COPY OF THE JUDGMENT DATED 08.04.2014 IN W.P.C NO.10502 OF 2014.**

RESPONDENT's EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

K. VINOD CHANDRAN, J.

W.P.(C) No.11672 of 2015

Dated this the 10th day of April, 2015

JUDGMENT

The petitioner is a stage carriage operator in the route Aluva - Willingdon Island. The stage carriage endorsed in the permit was a 2010 model vehicle with 38 seats and the petitioner sought replacement with a 2002 model vehicle with 39 seats by Ext.P2 application. Ext.P2 application is not considered by the Regional Transport Authority, for the reason that, the vehicle now offered is older than the one sought to be replaced.

2. This Court has 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, consideration of Ext.P2 shall be made in accordance with law, without looking into

the model, but only considering the viability the said vehicle to operate on the route in question.

Sd/-
K. VINOD CHANDRAN,
JUDGE

smv