

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

WP(C).No. 13376 of 2015 (V)

PETITIONER :

**PALAKKAD JILLA PRIVATE BUS OPERATORS ASSOCIATION,
REP. BY ITS SECRETARY K.RAVINDRAKUMAR, RAMA NIVAS,
EDAYAR STREET, PALAKKAD-678 001.**

**BY ADVS.SRI.P.SANTHOSH KUMAR
SRI.T.PSAJAN**

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
PALAKKAD, REPRESENTED BY ITS SECRETARY,
PALAKKAD,PIN-678 001**
- 2. SECRETARY, REGIONAL TRANSPORT AUTHORITY,
PALAKKAD, O/O RTA, PALAKKAD,PIN-678 001**

R1 & R2 BY GOVERNMENT PLEADER SRI.SHYSON P. MANGUZHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-06-2015, THE COURT ON 12-06-2015 DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 13376 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE REPRESENTATION DATED 19/1/2015.**
- EXT.P2. TRUE COPY OF THE PROCEEDINGS DATED 12/2/2015 WHICH WAS
 SIGNED FOR COMMUNICATION ON 1/4/2015.**
- EXT.P3. TRUE COPY OF THE CIRCULAR NO.D3/875/STA/2005 DATED 8/11/2011.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 13376 of 2015

Dated this the 12th day of June, 2015.

JUDGMENT

The interpretation given by the first respondent to Ext.P3 circular in Ext.P2, is under challenge in this writ petition.

2. The first petitioner is a registered Association of Stage Carriage Operators of Palkkad District. The petitioners allege that in the various meetings of the first respondent authority held during the period from 2012 onwards, the petitioners association had represented to comply with the statutory provisions under the Motor Vehicles Act, 1988 and also the stipulations contained in Ext.P3 circular. Ultimately, Ext.P1 representation was submitted. The grievance of the petitioner is that the first respondent without considering any aspects in Ext.P1, rejected the same representation as per Ext.P2 proceedings dated 12.2.2015. The petitioner alleges that the first respondent authority is bound to implement all orders and directions issued by the State Transport Authority

as contemplated under the provisions of the Motor Vehicles Act. The petitioners allege that the statutory authority issued Ext.P3 circular in implementation of the judgment in O.P.No.12774 of 1997 dated 17.5.2015. It is with this background, the petitioner has come up before this court.

3. A detailed statement has been filed by the second respondent. It was contended that Ext.P3 decision of the respondent authority was aimed to ensure uniformity in the rate of running time of stage carriages in the State considering different parameters like type of road (four lane, two lane, single lane, city/town, Ghat road etc), class of stage carriage service (ordinary, fast passenger, super-fast, super express, super delux and Hi-tech etc.). In Ext. P3 decision, it was specifically instructed to follow the guidelines strictly while issuing permits. It also directs the revision of time schedules of presently operating stage carriages in the State. The above decision was considered by the respondent authority in its meeting held on 7.2.2012 and after hearing the concerned,

the authority had directed the Secretary to implement the order of the State Transport Authority. It is further contended that since then, while the authority considered the application for fresh stage carriage permit, the rate of running time is prescribed/arrived at by considering the above parameters in Ext.P3. It was clarified that the classification of single lane roads having not less than 3.5 meters of carriage way was for the purpose of calculating the running time, especially for differentiating between two lane and single lane roads. According to the respondent, it is not aimed to prohibit the Regional Transport Authority from entertaining fresh permit application, especially in rural areas where there is need for permit for conveyance of travelling public.

4. Arguments have been heard.

5. The learned counsel for the petitioner would point out that a reading of Ext.P3 will clearly show that apart from fixing the running time of stage carriages, the said circular also prescribes the type of road, minimum width of carriage way

etc. The learned counsel would point out that single line road is defined in Clause 3 (a) as roads having not less than 3.5 metres of carriage way. As the circular insists that such road should have a minimum width of 3.5 metre, road having a total width of 3.5 meters cannot be treated as a "single line" road as per the circular. According to the learned counsel for the petitioner, it is taking into consideration of the public safety as well as for smooth vehicular traffic that the single line road is defined in Clause 3 (a) of Ext.P3. Therefore, the said stipulation is relevant while granting fresh regular permit.

6. The learned Senior Government Pleader per contra would submit that the intention of said classification is not to limit the powers of the authority in granting fresh permits. As rightly pointed out by the learned Senior Government Pleader where there is a virgin portion of the road, in the application for fresh stage carriage permit, apart from obtaining road fitness certificate from the concerned road authority, a detailed road enquiry would also be conducted by the competent officer

to ascertain the suitability of the road for stage carriage operation. Evidently, the petitioners have made a request before the respondent authority to take into consideration the minimum prescribed stage carriage way for the single lane road as 3.5 metres as mentioned in Ext.P3 circular while considering the application for fresh stage carriage permit by the respondent authority. After hearing the respondent authority, it was observed that the width of carriage way mentioned in single lane roads was only for the purpose of calculating the rate of running time for the stage carriage in the State. The said observation cannot be branded as unreasonable. Apart from the fitness of the road of the stage carriage operation, the width of the road cannot be considered as a parameter while considering the application for fresh stage carriage permit. If the permit is issued to operate along a single lane road, naturally sufficient time gap has to be given between each schedule. However, that shall not stand in the way of the respondent authority in granting fresh permit. It

may be true that granting of fresh permits may not be palatable to the existing operators. However, taking into account the inconvenience caused to the public, especially to those who are residing near the virgin roads, such an interpretation cannot be placed on Ext.P3 circular to deny grant of fresh permit.

On a consideration of the entire materials placed on records, this Court is of the definite view that the petitioner is not entitled to get the relief as prayed for. In the result, the writ petition fails and is accordingly dismissed.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.