

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WP(C).No.15101 of 2015 (K)

PETITIONER:

**ASWATHY KUMAR,S/O.CHANDRASENAN,
AGED 38 YEARS,KAMALALAYAM,CHATHANPARA,
THOTTAKKADU P.O,THIRUVANANTHAPURAM DISTRICT.**

BY ADV.SRI.O.D.SIVADAS

RESPONDENT:

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
THIRUVANANTHAPURAM (RURAL),
ATTINGAL-695 101.**

BY GOVT. PLEADER SMT.K.A.SANJEETHA.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.15101 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:

- P1- TRUE COPY OF THE PERMIT DATED 3.7.2013.**
- P2- TRUE COPY OF THE APPLICATION DATED 13.5.2015 SUBMITTED BY THE PETITIONER.**
- P3- TRUE COPY OF THE JUDGMENT IN WP(C) NO.10502 OF 2014 DATED 8.4.2014 PASSED BY THIS HONOURABLE COURT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.V.RAMAKRISHNA PILLAI, J

WPC No.15101 of 2015

Dated this the 22nd day of May, 2015

JUDGMENT

The petitioner is seeking a positive direction from this Court to direct the respondent to pass final orders on the petitioner's application for a regular permit.

2. The petitioner holds a regular permit to conduct service on the route Attingal-Kottiyam as per Ext.P1 permit issued in respect of his vehicle bearing Reg.No.KL-16-H/9394. Later, the vehicle has to be garaged for repairs and it was the petitioner's intention to offer a suitable vehicle for replacement when the application for renewal of permit was taken up for consideration by the first respondent. Ext.P1 permit was placed before the meeting of the respondent and during the time of hearing, the petitioner submitted that he is in possession of another stage carriage vehicle bearing Reg.No.KL-7/AR 6285 which is a 2003 model vehicle and therefore, the application for renewal be sanctioned and

renewed permit be issued in respect of the above vehicle. However, the respondent adjourned the application without passing any final orders. The petitioner was also advised to file a proper application for replacement under Section 83 of the Motor Vehicle's Act, 1988 for replacing the existing vehicle bearing Reg.No. KL-16-H/9394 with the proposed incoming vehicle bearing Reg.No. KL-7/AR 6285.

3. The grievance of the petitioner is that the respondent was refusing to countenance Ext.P2 application for replacement on the ground that the proposed incoming vehicle is an older one *vis a vis* the outgoing existing vehicle.

4. I have heard the learned counsel for the petitioner as well as the learned Government Pleader in the matter.

5. The objection raised by the respondent was that the vehicle was an older vehicle. The issue is no longer *res integra* and is covered by the judgments of this Court wherein this Court has declared that the authority is bound to look into the viability of the vehicle proposed to

operate on the route in question and not its model. The learned counsel for the petitioner placed reliance on Ext.P3 in this regard.

6. Considering the matters now placed on board, this Court is of the view that the respondent can be directed to have a re-look at the issue by re-considering the application submitted by the petitioner.

Therefore, this writ petition is disposed of directing the respondent to consider the application submitted by the petitioner in the light of what has been stated above, after affording the petitioner an opportunity of being heard. The entire exercise shall be completed within a period of one month 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 the writ petition and a copy of this judgment before the respondent at the earliest.

Sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

css/

true copy

P.S.TO JUDGE

