

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

WP(C).No. 15443 of 2015 (E)

PETITIONER(S) :

**NASEER C.,
S/O.ENI, CHERUKAT HOUSE, PATHAPPIRIYAM,
MANJERI, MALAPPURAM DISTRICT.**

BY ADV. SRI.SAJU J.VALLYARA

RESPONDENT(S):

- 1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
MALAPPURAM, PIN- 676 505.**
- 2. THE STATE TRANSPORT AUTHORITY,
KERALA, REPRESENTED BY ITS SECRETARY,
TRANSPORT COMMISSIONERATE,
THIRUVANANTHAPURAM, PIN- 695 039.**

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: PHOTOCOPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT
VIDE ORDER NO.C6/48724/2001 M DATED 09.05.2001.**
- EXHIBIT P2: PHOTOCOPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT
VIDE NO.D3/875/STA/2005 DATED 08.11.2011.**
- EXHIBIT P3: PHOTOCOPY OF THE GUIDELINES ISSUED BY THE TRANSPORT
COMMISSIONER, THIRUVANANTHAPURAM
VIDE NO.D3/875/STA/2011 DATED 04.11.2011.**
- EXHIBIT P4: PHOTOCOPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT
VIDE ORDER NO.C6(D3)/1539/2013/M DATED 25.02.2014.**
- EXHIBIT P5: PHOTOCOPY OF THE OBJECTION SUBMITTED BY
THE PETITIONER BEFORE THE 1ST RESPONDENT ON 21.05.2015.**
- EXHIBIT P6: PHOTOCOPY OF THE ORDER IN W.P.(C).NO.10185 OF 2014-W
DATED 07.04.2014.**
- EXHIBIT P7: PHOTOCOPY OF THE JUDGMENT IN W.P.(C).NO.10185 OF 2014-W
DATED 13.10.2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 15443 of 2015

Dated this the 3rd day of June, 2015.

JUDGMENT

The petitioner is challenging Ext.P4 which reversed the petitioner's timing, which according to the petitioner, is suo moto in violation of Exts.P2 and P3.

2. The petitioner is operating a stage carriage between Anamari and Manjeri as ordinary service with his stage carriage KL-10-AF1251 on the basis of Ext.P1 timings. The petitioner alleges that by Ext.P2 proceedings, the second respondent has prescribed the running time in respect of stage carriages on the basis of the nature of roads. Now the 1st respondent in total violation of the guidelines issued as Ext.P3, suo moto revised the timings of the petitioner's service as per Ext.P4 enhancing the existing running time and changing the existing timings resulting impossibility of the operation of service. It is further alleged that Ext. P4 is passed even without following the procedure prescribed under Rule 212 of

the Kerala Motor Vehicles Rules as well as the guidelines prescribed in Ext.P3 and also in violation of the principles of natural justice.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader in the matter.

3. The learned Government Pleader on instructions submitted that as per Ext.P4, the period of three months was granted to file objections and the petitioner submitted his objection only on 21.5.2015.

This Court has considered similar matters and granted an interim stay against the revision of timings made suo moto evidenced by Ext.P6 and finally set aside the order evidenced by Ext.P7. As the petitioner's grievance is that timings were revised without hearing, the writ petition is disposed of directing the respondent to consider and pass orders on Ext.P5 objection, after affording the petitioner an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment. In the meanwhile, the petitioner

shall be permitted to operate on the basis of Ext.P1. To facilitate an early action, it shall be open to the petitioner to produce a copy of the writ petition as well as the copy of this judgment before the first respondent at the earliest.

qSd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.