

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WP(C).No. 15510 of 2015 (K)

PETITIONER(S):

**PUSHPA PRASAD,
S/O. THRIVIKRAMAN, KOTTARATHIL VEEDU, MEENADU,
CHATHANNOOR, KOLLAM
REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER GIREESH G. KRISHNAN ,
S/O. GOPALAKRISHNA KURUP, RAMAKRISHNA VIHAR,
KALLUVATHUKKAL P.O., KOLLAM.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KOLLAM - 691 001.**

BY GOVERNMENT PLEADER G.GOPAKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

WP(C).No. 15510 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - TRUE COPY OF THE PROCEEDING DT. 05.1.15 ISSUED BY THE RESPONDENT.**
- P2 - TRUE COPY OF THE APPLICATION FOR REPLACEMENT SUBMITTED BY THE PETITIONER.**
- P3 - TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC NO.6606/2015.**
- P4 - TRUE COPY OF THE APPLICATION FOR TEMPORARY PERMIT SUBMITTED BY THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J

WPC No.15510 of 2015

Dated this the 30th day of June, 2015

JUDGMENT

The limited prayer in this writ petition is only for a direction to the respondent to consider Ext.P2 application for replacement.

2. The petitioner is an existing stage carriage operator on the route between Chirakkara Temple and Puthoor and the permit was issued in respect of stage carriage bearing No.KL-2K/9152. On account of mechanical complaint, the petitioner obtained clearance certificate by retaining the permit under suspended animation. The petitioner applied for replacement with a suitable vehicle and the same has not so far been granted by the Secretary, Regional Transport authority on the reason that the petitioner is not the owner of the vehicle. As per Section 2(30) of the Motor Vehicles Act, a person

who is possessing the vehicle on lease agreement is also termed as owner of the vehicle. This position is settled in the dictum laid down by this court in ***M.Raveendran v RTO, Kannur*** (1995(1) KLT 126). The petitioner also applied for temporary permit on the same route, which has not been granted by the respondent on the ground that the petitioner has not produced the clearance certificate in time as ordered by this Court. It is with this background the petitioner has come up before this Court.

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

Considering the nature of prayer and submission, this writ petition is disposed of directing the respondent to consider and pass appropriate orders on Ext.P2 application for replacement in the light of Ext.P3, after affording the petitioner an opportunity of being heard. This exercise shall be completed within a period of two weeks 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 this judgment as well as a copy of the writ petition before the respondent.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE