

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No.15654 of 2015 (F)

PETITIONER:

**CHANDHU,MADHAVAM,THODIYOOR,
KALLELIBHAGAM,KARUNAGAPPALLY.**

BY ADV.SRI.O.D.SIVADAS

RESPONDENT:

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

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.15654 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:

- P1: TRUE COPY OF THE PERMIT ISSUED TO THE PETITIONER.**
- P2: TRUE COPY OF THE APPLICATION DTD.20.5.2015 SUBMITTED BY THE PETITIONER.**
- P3: TRUE COPY OF THE JUDGMENT IN WPC NO.10502/2014 DTD.8.4.2014 PASSED BY THIS HON'BLE COURT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.15654 of 2015

Dated this the 27th day of May, 2015.

JUDGMENT

Aggrieved by non-consideration of Ext.P2 application, the petitioner has come up before this Court.

2. The petitioner is an existing operator on the route Nelparakunnu-Vellanthuruth. The permit is issued in respect of stage carriage No.KL 34/543 and the permit is valid upto 22.9.2017. The petitioner alleges that on account of bad condition of the vehicle, the petitioner applied for clearance certificate by retaining the vehicle under suspended animation and accordingly clearance certificate was granted. In order to resume service, the petitioner submitted an application for replacement on 20.5.2015. Admittedly, the incoming vehicle is a 2004 model vehicle and on account of the above, the respondent has not granted replacement. It is submitted that make and model of the vehicle is not a sufficient reason to deny replacement. What is to be looked into is the viability of

the vehicle as the relevant factor for considering the application for replacement. The petitioner alleges that as per Rule 174(2), it is discretion of the authority to reject the application for replacement. If the incoming vehicle proposed is older than the one ought to be replaced, the same is not a ground to deny the replacement. If the incoming vehicle, though aged more, is fit in all respects than the original vehicle, then the authority has to exercise its discretion in the matter and grant replacement. But the respondent is reluctant to consider the same.

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

Considering the nature of the prayer in the writ petition, the writ petition is disposed of directing the respondent to consider Ext.P2 application in the light of Ext.P3 judgment, after affording the petitioner an opportunity of being heard, within a period of three 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 the writ petition as well as the copy of the judgment before the first respondent at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.