

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. 15671 of 2015 (H)

PETITIONER:

**DILEEP KUMAR,
S/O.MANOCHARAN PILLAI,
PREMRAJ BHAVAN, KILIMANNOOR,
THIRUVANANTHAPURAM - 695601.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT:

**THE SECRETARY,
REGIONAL TRNASPORT AUTHORITY,
THIRUVANANTHAPURAM (RURAL),
ATTINGAL - 695101.**

BY GOVERNMENT 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:**

mbr/

WP(C).No. 15671 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: TRUE COPY OF THE PERMIT ISSUED TO THE PETITIONER.**
- P2: TRUE COPY OF THE APPLICATION DATED 15.05.2015 SUBMITTED BY THE PETITIONER.**
- P3: TRUE COPY OF THE JUDGMENT IN WPC.NO.10502/2014 DATED 08.04.2014 PASSED BY THIS HONOURABLE COURT.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.15671 of 2015

Dated this the 27th day of May, 2015.

JUDGMENT

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

2. The petitioner is an existing operator on the route Mottakuzhy - Attingal. The petitioner alleges that the permit is issued in respect of stage carriage No.KL 16 D/600 and the permit is valid till 6.6.2017. 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. The petitioner further alleges that in order to resume service, he submitted an application for replacement on 20.5.2015. Admittedly, the incoming vehicle is a 2003 model vehicle and on account of the above, the respondent has not granted replacement. The petitioner 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. As per Rule 174 (2), it is the discretion of the authority to reject the application for replacement. If the incoming vehicle proposed is older than the one sought 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 application on the ground that the incoming vehicle is not later than the outgoing vehicle, it is alleged.

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

Considering the nature of the prayer sought for in the writ petition, the writ petition is disposed of the directing the respondent to consider and pass appropriate orders on Ext.P2 application submitted by the petitioner, 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 this judgment before the respondent at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.

The vehicle No."KL-16 D/600" occurring in the 3rd line of paragraph 2 of the judgment dated 27/05/2015 in W.P.(C) No.15671/2015 is corrected and substituted as "KL-16-D-6400", vide order dated 11/06/2015 in I.A 7827/2015.

Sd/-
Registrar (Judicial)