

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 16363 of 2014 (U)

PETITIONER(S):

**JACKSON C.JOSEPH, AGED 43 YEARS,
S/O.JOSEPH C.J., CHUNDAKATTIL HOUSE,
ETTUMANOOR P.O., KOTTAYAM - 686 631.**

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENT(S):

**1. THE SECRETARY
THE REGIONAL TRANSPORT AUTHORITY, KOTTAYAM-686 001.**

- * ADDITIONAL R2 IMPEADED**
**2. K.M.THOMAS, KURUMULLUMTHADATHIL HOUSE,
KANAKARY P.O., ETTUMANOOR, KOTTAYAM.**
*** IMPEADED AS PER ORDER DTD.24.10.2014 IN IA.14116/2014.**

**R1 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR
R2 BY ADV. SRI.G.PRABHAKARAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: TRUE COPY OF THE ORDER NO.C2/3592/2013/K ISSUED BY THE
RESPONDENT DATED 20.12.2013.**

**EXHIBIT-P2: TRUE COPY OF THE ORDER NO.C2/3592/2013/K ISSUED BY THE
RESPONDENT DATED 28.03.2014.**

**EXHIBIT-P3: TRUE COPY OF THE TIMING IN RESPECT OF STAGE CARRIAGE BEARING
REGISTRATION NO.KL-36/9449 DTD.10.6.2014.**

**EXHIBIT-P4: TRUE COPY OF THE TIMING IN RESPECT OF STAGE CARRIAGE BEARING
REGISTRATION NO.KL-05/X-7072 DTD.22.04.2014.**

**EXHIBIT-P5: TRUE COPY OF THE TIMING IN RESPECT OF STAGE CARRIAGE BEARING
REGISTRATION NO.KL-05/Y-4117 DTD.20.12.2014.**

RESPONDENT(S)' EXHIBITS:

**EXT.R2(a): TRUE COPY OF THE PROCEEDINGS OF THE SECRETARY, RTA KOTTAYAM
WITH ITS ORDER NO.C1/3592/2013/K DATED 10.3.2014 ON THE ROUTE
KOTTAYAM-MECHAL WITH KL 5/AG 1800.**

**EXT.R2(b): TRUE COPY OF THE PROCEEDINGS OF THE SECRETARY, RTA KOTTAYAM
WITH ITS ORDER NO.C3/5321/2004/K DATED 29.3.2014 ON THE ROUTE
KOTTAYAM-ERATTUPETTA WITH KL 33/5341.**

**EXT.R2(c): TRUE COPY OF THE TIMING WITH STAGE CARRIAGE KL 5/AB 4777 ON
THE ROUTE KOTTAYAM-PUNNATHURA.**

**EXT.R2(d): TRUE COPY OF THE PROCEEDINGS OF THE SECRETARY, RTA KOTTAYAM
WITH ITS ORDER NO.C2/3592/2013/K DATED 28.3.2014 ON THE ROUTE
KOTTAYAM-VATTUPARA WITH KL 28/3/2014.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

K.VINOD CHANDRAN, J.

=====

W.P(C) No.16363 of 2014

=====

Dated this the 6th day of February, 2015

JUDGMENT

The petitioner is aggrieved with Ext.P2 revision of timings made without notice to the petitioner. The petitioner contends that his timings were revised in a properly convened timing conference as is indicated at Ext.P1, on 20.12.2013. Subsequently, without any notice and without hearing the petitioner, the said timings have been altered by Ext.P2. There was a stay granted on the admission of this writ petition.

2. The State has filed a counter pointing out that Ext.P2 was issued only to rectify an anomaly in Ext.P1. Though it is stated that the revision was with the consent of the petitioner, the petitioner denies the same and asserts that no notice even was issued to him. The alleged consent is not reflected in the order also.

3. The learned counsel appearing for the impleading petitioner would point out that in fact the revision was made on a request made by the petitioner to change the timing in Ext.P1 at 6:13 p.m to 6:09 p.m. In any event, the petitioner was not issued with any notice with respect to the rectification of the anomaly, now put forward by the Government, in its counter affidavit.

4. The Government's stand is that, between Medical College and Kottayam the petitioner was granted 24 minutes running time as is applicable to city/town routes; whereas the petitioner's stage carriage being a mofusil service was only entitled to a lesser running time of 20 minutes at the rate of 2.25 minutes per kilometre.

5. The learned counsel for the petitioner, on the basis of Ext.P3 circular, contends that D3 circular and the timings therein have not been brought in, on the basis of the categorisation of services. What is indicated in D3 is that,

running time-rates are prescribed on the basis of the road condition, whether it is single-line, double-line or otherwise. The learned counsel also relies on Annexure 1 of D3 circular, to indicate that the running time is different for two-line, single-line, city/town road and ghat roads. The specific contention raised is that despite petitioner being a mofusil service; between Medical College and Kottayam it has to be treated as city/town road and in such circumstance, the petitioner's running time should be fixed between such points at the rate of three minutes per kilometer.

6. The learned counsel for the impleading respondent, however, refutes the assertion that the road between Kottayam and Medical College is a city/town road. The specific contention raised by the additional respondent is that it is a single line road for which timings have to be settled at the rate of 2.25 minutes per Kilometer. The additional respondent has also produced his timings which is also a

mofusil service which has been granted with the time rate of 2.25 minutes per Kilometer, between Kottayam and Medical College.

7. It is clear that Ext.P2 has been issued without notice to the petitioner. Though the petitioner had made a request for change of a solitary timeslot from 6:13 p.m to 6:09 p.m, that cannot do the authority with power to change the other timings of the petitioner, which is said to have been settled in a proper timing conference; that too the running time itself. The additional respondent also has a contention that Ext.P1 was settled without notice to any rival operators. There is considerable dispute with respect to the settlement of timing of the petitioner. The petitioner has been operating on Ext.P1 from the time the writ petition was admitted, on 27.06.2014. Hence, the petitioner can be allowed to continue operating on the same till a decision is taken in the matter. The Secretary RTA shall convene a timing conference at any

rate within two months from today and display public notice on the notice board and issue specific notices to the petitioner and the additional respondent of the conference convened. The petitioner and the additional respondent and any other operator interested, shall be heard and the timings be settled within the time stipulated herein.

The writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN, JUDGE

vdv