

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

WP(C).No. 16342 of 2015 (P)

PETITIONER(S):

**SHIBU,
PUTHENPURAYCKAL HOSUE, THRIKODITHANAM P.O.,
CHANGANACHERRY, KOTTAYAM.**

BY ADV. SRI.P.DEEPAK

RESPONDENT(S):

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

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-06-2015 THE COURT ON 12-06-2015, DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 16342 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE PROCEEDINGS OF THE RTA, KOTTAYAM
DATED 24.3.2015.**

**EXHIBIT P2: A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF
KL-07/AE-7629.**

EXHIBIT P3: TRUE COPY OF THE COVERING LETTER DATED 21.5.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms v/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.16342 of 2015

Dated this the 12th day of June 2015.

JUDGMENT

Alleging that the respondent is refusing to receive the current records of the stage carriage bearing registration No.KL-07/AE 7629 submitted by the petitioner on the ground that the said vehicle is registered in the year 2001, the petitioner has come up before this Court.

2. The petitioner applied for the grant of a regular permit to conduct the service between Kunnathanam and Changanacherry Perunna BS. The application was considered by the Regional Transport Authority, Kottayam in the meeting held on 24.3.2015 and the regular permit was granted on the above route subject to the settlement of timings as per Ext.P1. The Regional Transport Authority granted regular permit to KL-03/H 5600 or a suitable vehicle in consonance with the application submitted by the petitioner wherein he had offered to avail the permit in respect of stage carriage

bearing registration No.KL-03/H 5600 or a suitable other vehicle. The petitioner alleges that on 21.5.2015, immediately on receipt of Ext.P1 proceedings, the petitioner submitted the current records of stage carriage bearing registration No.K L-07/AE7629. The grievance of the petitioner is that the respondent is refusing to receive the current records of the said vehicle on the reason that the said vehicle is registered in the year 2001 whereas the vehicle specified in the application and referred to in Ext.P1 grant made by the RTA, namely, KL-03/H 5600 is registered in the year 2002. According to the respondent, only a later model vehicle could be offered in substitution of the vehicle specified in the application for permit. 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 Senior Government Pleader in the matter.

4. The learned Senior Government Pleader on instructions, submitted that the vehicle now offered by the

petitioner is having a less seating capacity. The learned Senior Government Pleader invited my attention to the judgment of this Court in W.P.(C) No.5728 of 2015 and connected cases, wherein it was held that the "material difference" shall always be related to the original vehicle, since even the rule (Rule 174 of the Motor Vehicle Rules) as it exists now, could be interpreted.

5. Mr. P.Deepak, the learned counsel for the petitioner, per contra, would submit that the bar under Rule 174 of the Motor Vehicles Act will not stand in the way of the petitioner as the petitioner has requested for a fresh permit. According to the learned counsel for the petitioner the bar under Section 174 of the Motor Vehicles Act would apply only in case of a stage carriage which was operating.

6. But it has to be noted that the petitioner had offered to avail the permit in respect of stage carriage bearing registration No. KL-03/H 5600 or a suitable other vehicle. Now the stand taken by the respondent is that the vehicle now

offered that KL-07/AE 7629 is having a lesser seating capacity than that of the vehicle which was offered by the petitioner in respect of which the permit has been granted which comes within the meaning of "material difference". I see a valid force in the stand taken by the respondent in refusing permit to the petitioner's vehicle.

In the result, the writ petition is dismissed. However, it is hereby made clear that this will not stand in the way of the petitioner in offering a road worthy vehicle having the same seating capacity if the vehicle in respect of which permit was granted or having a lesser seating capacity within the permissible limits.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.