

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. 16425 of 2015 (C)

PETITIONER(S):

**ZIYAD K.H., S/O.HAMSA, AGED 40,
KATTIKODATHURUTH HOUSE, KARUMALLOOR.**

BY ADV. SRI.M.JITHESH MENON

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT OFFICER,
ERNAKULAM, OFFICE OF THE REGIONAL TRANSPORT OFFICE,
CIVIL STATION, KAKKANAD, KOCHI-30.**
- 2. THE JOINT REGIONAL TRANSPORT OFFICER,
NORTH PARUR, OFFICE OF THE JOINT REGIONAL
TRANSPORT OFFICE, NORTH PARUR - 683 532.**

BY GOVERNMENT PLEADER SRI.SHYSON P. MANGUZHA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05-06-2015 THE COURT ON 12-06-2015, DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 16425 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT. P1 - TRUE COPY OF THE RELEVANT PAGES OF THE REGISTRATION
CERTIFICATE IN RESPECT OF KL-40/B.7303.**

EXT. P2 -TRUE COPY OF THE GOODS CARRIAGE PERMIT DATED 31.3.14.

**EXT. P3 - TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER FOR
CLEARANCE CERTIFICATE DATED NIL.**

EXT. P4 - TRUE COPY OF THE RECEIPT DATED 6.5.15.

**EXT. P5 - TRUE COPY OF THE INTIMATION SENT BY THE 2ND RESPONDENT TO THE
PETITIONER DATED 27.4.15 SIGNED ON 12.5.2015.**

EXT. P6 - TRUE COPY OF THE RELEVANT ITEM IN THE AGENDA DATED 26.5.2015.

EXT. P7 - TRUE COPY OF THE JUDGMENT IN WPC.NO.33629/09 DATED 15.3.2010

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms v/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 16425 of 2015

Dated this the 12th day of June, 2015.

JUDGMENT

Alleging inaction on the part of the respondent authority in issuing a clearance certificate to the petitioner's heavy vehicle, he has approached this Court.

2. The petitioner is the registered owner of a heavy goods vehicle bearing registration No.KL-40/B 7303, which was checked on 24.9.2014. A check report was issued, alleging overloading and thereafter, no communication was received from the second respondent by the petitioner. The petitioner thereafter sold the vehicle to another person residing in the jurisdiction of the Regional Transport Office, Pattambi. The petitioner had, for enabling the purchaser to take the vehicle to Pattambi, applied for clearance certificate by submitting Ext.P3 application. However, no orders were passed on the said application and the petitioner was served with Ext.P5 intimation by the 2nd respondent, stating that the said

application cannot be considered and the matter has been placed for consideration before the Regional Transport Authority, Ernakulam. Accordingly, an item was boarded before the Regional Transport Authority, Ernakulam which met on 20.6.2015. However, no decision has been taken by the Regional Transport Authority, till date on the further action to be taken. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. The learned counsel for the petitioner relied on Ext.P7 judgment of this Court in support of the case.

5. The learned Senior Government Pleader per contra would submit that the same relate to a case where the petitioners have sought for the renewal of authorisations. The learned Government Pleader would submit that the intention of the petitioner is to take away the vehicle outside the State and therefore, pending the check report, the clearance certificate cannot be issued.

6. It is crucial to note that the alleged check report

was issued to the driver of the vehicle and the same was not compounded at any point of time. Therefore, there is inaction on the part of the respondent in completing the proceedings in accordance with the provisions of the Motor Vehicles Act. Since the proceedings in respect of the vehicle of the petitioner is not complete, the clearance certificate cannot be denied to the petitioner. Therefore, the respondents are bound to consider the application of the petitioner for clearance.

In the result, the writ petition is disposed of directing the respondent to consider and pass appropriate orders on the application submitted by the petitioner, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment. There shall be a further direction to complete the proceedings against the petitioner as per the check report in accordance with the provisions of the Motor Vehicles Act.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.