IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 16439 of 2015 (D)

PETITIONER(S):

P.B. ANEESH, AGED 40 YEARS,
S/O.BALAN, PONOTH HOUSE,
AZHEEKODE P.O., THRISSUR.

BY ADV. SRI.M.JITHESH MENON.

RESPONDENT(S):

1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
THRISSUR- 680 001.

*** ADDL. R2 & R3 IMPLEADED**

2. P.K. MOHAMMED,
PADIYATH KOOKADAKAVATHIYIL,
P.O. ERIYAD, KODUNGALLUR.

3. K.S. SANEESH, KALLATHIL HOUSE,
P.O. ERIYAD, KODUNGALLUR.

*** ADDL. R2 & R3 ARE IMPLEADED AS PER ORDER DATED 05/06/2015 IN I.A. NO.7480/2015.**

**** ADDL. R4 IMPLEADED**

4. SURENDRAN, S/O.SREEDHARAN,
KOZHISSERI HOUSE, ERIYAD, KODUNGALLUR.

*** ADDL. R4 IS IMPLEADED AS PER ORDER DATED 05/06/2015 IN I.A. NO.7485/2015.**

R1 BY GOVT. PLEADER SMT.K.A. SANJEETHA.
ADDL. R2 & R3 BY ADV. SRI.K.V.GOPINATHAN NAIR.
ADDL. R4 BY ADV. SRI.I.DINESH MENON.

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: TRUE COPIES OF THE TEMPORARY PERMITS DATED 18.02.2012.

EXHIBIT P2: TRUE COPIES OF THE TEMPORARY PERMITS DATED 28.09.2013.

EXHIBIT P3: TRUE COPIES OF THE INTERIM ORDER IN MP NO.1149/13 IN MVAA NO.438/13 DATED 07.11.2013.

EXHIBIT P4: TRUE COPY OF THE JUDGMENT IN WP(C).NO.2681/2014 DATED 28.01.2014.

EXHIBIT P5: TRUE COPY OF THE TEMPORARY PERMIT ISSUED TO THE PETITIONER DATED 03.02.2014.

EXHIBIT P6: A TRUE COPY PF THE ORDER PASSED BY THE 1ST RESPONDENT DATED 06.02.02014.

EXHIBIT P7: TRUE COPY OF THE JUDGMENT IN WP(C).NO.13721/2014 DATED 31.05.2014.

EXHIBIT P8: TRUE COPY OF THE TEMPORARY PERMIT ISSUED TO THE PETITIONER, PURSUANT TO EXT P7 JUDGMENT DATED 04.06.2014, WHICH WAS VALID TILL 02.10.2014.

EXHIBIT P9: A TRUE COPY OF THE JUDGMENT PASSED BY THIS HON'BLE COURT IN WP(C).NO. 25811/2014 DATED 07.10.2014.

EXHIBIT P10: A TRUE COPY OF THE TEMPORARY PERMIT ISSUED, PURSUANT TO EXT P9, DATED 09.10.2014.

EXHIBIT P11: A TRUE COPY OF THE JUDGMENT IN WP(C).NO.3117/2015 DATED 06.02.2015.

EXHIBIT P12: TRUE COPY OF THE TEMPORARY PERMIT DATED 10.02.2015 .

EXHIBIT P13: TRUE COPY OF THE JUDGMENT IN WP(C).NO.1978/2015 DATED 17/03/2015.

EXHIBIT P14: TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER DATED 28.05.2015.

EXHIBIT P15: TRUE COPY OF THE APPLICATION FOR TEMPORARY PERMIT SUBMITTED BY THE PETITIONER DATED 29.05.2015.

EXHIBIT P16: A TRUE COPY OF THE CHALLAN EVIDENCING PAYMENT DATED 29.05.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

rs. P.A. TO JUDGE

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.16439 of 2015

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Dated this the 5th day of June, 2015

JUDGMENT

This writ petition is filed seeking a direction to the respondent to consider Ext.P15 application for re-issue of temporary permit within a time frame.

2. The petitioner is a stage carriage operator operating on the route Azheekode Beach - Kottappuram - Chendrappinny via, Azheekode, Eriyad, Kottappuram, Asmabi College, West Perinjanam and Chamakkala, on the strength of regular permit which is valid up to 24.2.205. On the death of the permit holder, the legal heirs had submitted an application for transfer of the permit which was considered by the first respondent on 25.2.2011 and an order has been passed stating that the legal heirs had not submitted the death intimation in time and had operated the vehicle illegally after the death of the permit holder and had also obtained the renewal by

suppressing the fact of death and action was directed to be taken for cancellation.

3. The petitioner alleges that he has started operation on the above route in the vacancy of stage carriage bearing no.KL-8/S 7369 from 18.2.2012 till 27.10.2013. However, the application for re-issue of temporary permit was rejected by the respondent on the ground of objectionable overlapping. In the appeal filed by the petitioner, the State Road Transport Appellate Tribunal directed the petitioner to modify the route avoiding the objectionable overlapping and the petitioner had submitted a modified proposal. However, the second respondent did not consider the proposal and grant the temporary permit. Therefore, the petitioner approached this Court with W.P(C) No.2681 of 2014 wherein this Court directed the respondent to consider the same and grant temporary permit. Accordingly, Ext.P5 permit was issued and the same was valid till 2.6.2014.

4. The petitioner further alleges that he had also applied for

regular permit on the very same route which was also modified by the petitioner by avoiding the objectionable overlapping. The application was considered by the first respondent on 6.2.2014 and the same was granted, subject to settlement of timings, in accordance with running time, in consonance with D3 circular. Aggrieved by the condition imposed, the petitioner approached this Court with W.P(C) No.13721 of 2014 which was disposed of by Ext.P7 judgment wherein it was observed that the authority would consider the timings, if any, proposed by the petitioner. Since Ext.P5 temporary permit was to expire on 2.6.2014, direction was also issued to reissue the same. Accordingly, Ext.P8 temporary permit was issued and the same was valid up to 2.10.2014.

5. The petitioner again approached this Court with W.P(C) No.25811 of 2014 when Ext.P8 was about to expire and this Court by Ext.P9 had directed the respondent to consider the application and issue the same. Accordingly, Ext.P10 permit was issued and the same

was valid up to 2.2.2015. The application for reissue of permit from 2.2.2015 was kept pending and the petitioner had again approached this Court with W.P(C) No.3117 of 2015. In the meanwhile, the application for temporary permit was rejected and the same was impugned in the above writ petition which was allowed by Ext.P11 judgment and temporary permit was directed to be issued. Accordingly, Ext.P12 temporary permit was issued and the same is valid till 9.6.2015.

6. The grievance of the petitioner is that he has now submitted Ext.P15 application for reissue of temporary permit which was kept pending by the respondent in view of the fact that this Court in Exts.P11 and P13 judgments directed settlement of timings in respect of regular permit before the expiry of Ext.P12 temporary permit. Even though timing conference was convened on 3 occasions and timings till 4.30 pm trip was settled, the same could not be concluded due to objections. According to the petitioner, the timing conference

was last posted on 29.5.2015 and the same has been adjourned again. The petitioner alleges that he had co-operated with the settlement of timings. Therefore, according to him, if Ext.P15 is not directed to be considered and temporary permit issued, the petitioner and travelling public would be put to severe hardship.

7. Arguments have been heard.

8. Today when the matter came up for hearing, two interlocutory applications were filed for impleading the applicants therein as additional respondents in the writ petition. The said applications were allowed and the additional respondents are subsequently impleaded.

Considering the nature of the relief sought for and the submissions made by the learned counsel for the petitioner, the writ petition is disposed of directing the respondent to schedule a timing conference within a period of one week from the date of receipt of a copy of this judgment wherein the petitioner as well as the

respondents shall be afforded an opportunity of being heard. While passing the timings, Exts.P11 and P13 judgments shall also be taken into account by the respondent.

The operation of the petitioner's temporary permit shall be confined to one week only and he is permitted to continue for another period of one week from today on the strength of the existing temporary permit.

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

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