

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No.16553 of 2015 (T)

PETITIONER:

**K.P.MAHESH,MAHESH MANDIRAM,
MARIYTHURUTHU PO,KOTTAYAM,
REPRESENTED BY POWER OF ATTORNEY HOLDER
T.C.THOMAS,THAKADIYELPARAMBIL HOUSE,
CHANNANIKADU P.O,KOTTAYAM DISTRICT.**

BY ADV.SRI.G.PRABHAKARAN

RESPONDENT'S:

- 1. THE REGIONAL TRANSPORT AUTHORITY,KOTTAYAM,
REPRESENTED BY ITS SECRETARY,PIN-686 002.**
- 2. THE SECRETARY,REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM-686 002.**

R1&R2 BY GOVT. PLEADER SMT.K.A.SANJEETHA.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1: TRUE COPY OF THE PROCEEDINGS OF THE RTA KOTTAYAM WITHITS
NO.C2/7741/2014/K IN ITEM NO.37 DATED 6-11-2014 ON THE ROUTE
KOTTAYAM-CHERTHALA.
- P2: TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 6-1-2015.
- P3: TRUE COPY OF THE RELEVANT PORTION OF THE AGENDA ITEM NO.147
HELD ON 24-3-2015.
- P4: TRUE COPY OF THE RTA DECISION IN ITEM NO.147.
- P5: TRUE COPY OF THE JUDGMENT DATED 8-5-2015 IN WPC.NO.12986/2015.
- P6: TRUE COPY OF THE PROCEEDINGS OF THE RTA KOTTAYAM WITHITS
NO.C2/3802/2015/K DATED 15-5-2015.
- P7: TRUE COPY OF THE JUDGMENT DATED 20-2-2014 IN WPC.NO.5085/2014.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.16553 of 2015

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Dated this the 16th day of June, 2015

JUDGMENT

Alleging that Ext.P5 was passed without hearing the petitioner and, therefore, it requires reconsideration, the petitioner has come up before this Court.

2. The petitioner is a regular stage carriage permit holder operating on the route Kottayam-Cherthala with stage carriage bearing No.KL-35/3802. The petitioner alleges that when the existing regular permit was to expire, he applied for renewal of permit in time. In fact, the financiers of the vehicle seized the vehicle and taken away. Therefore, he filed application for replacing the vehicle with a later model vehicle. Of course, he too applied for a variation to the extent the route to Vaikom which is subsequently not pressed for.

3. The petitioner further alleges that tCourt has categorically found that for renewal of permit, the existing vehicle is not required. Since the vehicle is already taken away by the financier, the question of NOC from them is not required. Hence, he filed an

application for replacing the existing vehicle. In the meanwhile the respondent issued a notice to produce NOC from the financiers, for which the petitioner gave a reply that since the vehicle is already seized and is with the financiers, the question of producing NOC from them do not arise. The petitioner alleges that matter was again placed for consideration in the meeting of RTA held on 24.3.2015.

4. As there was no finality to the matter, he approached this Court and this Court as per judgment dated 8.2.2015 in W.P(C) No.12986 of 2015 directed to take a decision within six weeks after giving notice to the petitioner. The petitioner further alleges that on receipt of the said judgment (Ext.P5), the first respondent considered the matter on 15.5.2015 not in the public meeting but by circulating among the members of RTA without issuing notice to the petitioner as ordered and without hearing him, rejected the application for variation, renewal, replacement of vehicle and the application for temporary permit by the same order. It is with this background, the petition has come up with this writ petition.

5. In the statement filed by respondents, it was stated that an application for temporary permit under Section 87(i)(d) for four

months was submitted by the petitioner. The first respondent in its sitting on 16.11.2014 has considered the following applications:

- 1.The application for variation of permit as Kottayam-Vaikom via Alummodu, Illickal, Kumarakom, Bund Road, Ullala, Kothavara College, Kottumkal Bridge, Cherickal, Thottavakom.
- 2.The application for renewal of regular permit for a further period of five years from 12.8.2014.
- 3.The application for replacement of vehicle by possession on lease agreement with S/C KL 07 AN 2392.
- 4.The application for temporary permit under Section 87(i)(d) for 4 months from the date of issue.

6. It was further stated that first respondent considered the above applications and adjourned the matter to obtain NOC from the financier for renewal of the permit as evident by Ext.P1. It was further stated that the petitioner was directed to produce NOC within 15 days and a letter was sent to the HP Company for furnishing the details dues and non dues of the finance agreement. On 24.12.2014, the Manager Shriram Transport Company Limited, Kottayam has informed that a sum of ₹28,28,076/- (Twenty Eight Lakh Twenty Eight Thousand and Seventy Six Rupees) is pending in

the loan agreement account (TSLKTM 0075892) as on 30.11.2014 and requested to record their strong objection in issuing regular permit and may refrain from issuing regular and temporary permit to the vehicle KL 35 3802.

7. It was further stated that on 6.1.2015, the petitioner has submitted an explanation to the office of the respondent stating that the vehicle KL 35 3802 was seized by the financier when he applied for the renewal of the permit. Having seized the vehicle by the financiers, the request for NOC is needless. It was further stated that on the basis of the decision first respondent as evidenced by Ext.P1, the above mentioned applications were again placed before the first respondent and the RTA in its sitting on 24.3.2015 has considered the applications and took Ext.P3 decision.

8. The petitioner has submitted reply affidavit.

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

10. It appears from record that the petitioner was already heard twice by the respondents in its meeting held on 6.11.2014 and on 27.12.2014 and thereafter the final decision was taken on the file by circulation. Once the petitioner was afforded an

opportunity of being heard, the mere fact that the minutes was circulated is not a valid reason to quash the proceedings.

11. After hearing, a decision can be taken by circulation also. Once the petitioner has availed that opportunity, he cannot challenge the validity of the proceedings on the ground of violation of the principles of natural justice. Therefore, this Court is of the view that the impugned proceedings did not call for interference.

In the result, the writ petition fails and accordingly, it is dismissed.

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

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