

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. 17000 of 2015 (Y)

PETITIONER:

**BINDU, AGED 29 YEARS,
W/O. MIJU, RESIDING AT THOTTAKATH HOUSE,
MANJUMMEL, UDYOGMANDAL P.O., ELOOR,
ERNAKULAM DISTRICT.**

BY ADV. SRI.P.DEEPAK.

RESPONDENT:

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM-682 030.**

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:**

rs.

WP(C).No. 17000 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1- TRUE COPY OF THE PERMIT VALID TILL 15-03-2016.

EXHIBIT P2- TRUE COPY OF THE JUDGMENT DATED 14-11-2014 IN
WP(C).NO.29192 OF 2014.

EXHIBIT P3- TRUE COPY OF THE APPLICATION FOR REPLACEMENT
DATED 09-02-2015.

EXHIBIT P4- A TRUE COPY OF THE JUDGMENT DATED 27-02-2015 IN
WP(C).NO.4633 OF 2015.

EXHIBIT P5- TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT
DATED 09-04-2015.

EXHIBIT P6- A TRUE COPY OF G.O.(P) 93/2014/TRAN DATED 29-12-2014.

EXHIBIT P7- A TRUE COPY OF THE TEMPORARY PERMIT ISSUED TO KL-11/ X 871.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 17000 of 2015

Dated this the 16th day of June, 2015

J U D G M E N T

Ext.P5, by which the petitioner's application for replacement was rejected, is under challenge.

2. The petitioner is the holder of a regular stage carriage permit, which is valid till 15.03.2016. Pursuant to the directions by this Court as per Ext.P2 judgment, the vehicle covered by the permit was issued with a clearance certificate keeping the permit in suspended animation, which was ordered to be issued subject to the condition that the petitioner would offer another suitable vehicle for replacement within a period of four months. Accordingly, on 09.02.2015, which is within the stipulated time, an application for replacement was submitted by the petitioner. As the respondent declined to sanction the application for replacement for the reason that the proposed incoming vehicle is older than the outgoing

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vehicle, the petitioner approached this Court; and vide Ext.P4 judgment, this Court directed the respondent to consider the application for replacement considering the viability only of the proposed incoming vehicle. However, the application for replacement was again rejected by the respondent vide Ext.P5 for the reason that the seating capacity of the proposed incoming vehicle is less than that of the outgoing vehicle. The petitioner points out that it is admitted in Ext.P5 that there is no material difference between the outgoing and incoming vehicles. Nevertheless, the respondent proceeds to reject the application on the ground that compliance with GO (P) 93/2014/Tran dated 29.12.2014 is essential. Hence, this writ petition.

3. Heard the learned counsel for the petitioner and the learned Government Pleader in the matter.

4. As this Court has quashed the amendment made to Rule 174 vide the aforementioned GO by a common judgment in WP(C) No.5728/2015, the petitioner

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is entitled to get the relief as sought for. Therefore, this Court is of the view that the matter requires a reconsideration.

In the result, the writ petition is allowed. Ext.P5 is quashed. The respondent is directed to grant permission to the petitioner for replacement within a period of two weeks from the date of receipt of a copy of this judgment.

To facilitate an early action, the petitioner shall be at liberty to produce a copy of this judgment as well as a copy of this writ petition before respondent at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-