

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).No. 17067 of 2015 (G)

PETITIONER :

**UNNIKRISHNAN P, AGED 40 YEARS, S/O.VELU,
PANNIKODAN HOUSE, CHATHANGOTTUPURAM.P.O.,
VEETHANASSERI, PORUR, MALAPPURAM DISTRICT
PIN-679328.**

BY ADV. SMT.K.NANDINI

RESPONDENTS :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
MOTOR VEHICLES DEPARTMENT,
THIRUVANANTHAPURAM-PIN-695001.**
- 2. TRANSPORT COMMISSIONER,
MOTOR VEHICLES DEPARTMENT, GOVERNMENT OF KERALA,
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM-695001.**
- 3. REGIONAL TRANSPORT OFFICER,
NILAMBUR MOTOR VEHICLES DEPARTMENT,
GOVERNMENT OF KERALA, RTO OFFICE, NILAMBUR
MALAPPURAM, PIN-679329.**
- 4. REGIONAL TRANSPORT OFFICER,
ERNAKULAM, MOTOR VEHICLES DEPARTMENT,
GOVERNMENT OF KERALA, RTO OFFICE, CIVIL STATION,
KAKKANAD, ERNAKULAM.**
- 5. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS,
TRANSPORT BHAVAN, 1, PARLIAMENT STREET,
NEW DELHI-110001.**

**R1 TO R4 BY GOVERNMENT PLEADER SMT. K.A. SANJEETHA
R5 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE SALE INVOICE NO.MA1415SCC 105A
DATED 6/3/2015
- EXT.P2: TRUE COPY OF THE TEMPORARY REGISTRATION CERTIFICATE
ISSUED FROM THE 1ST RESPONDENT TO THE PETITIONER
DATED 6/3/2015
- EXT.P3: TRUE COPY OF THE APPLICATION DATED 25/5/2015 SUBMITTED TO
THE 3RD RESPONDENT.
- EXT.P4: TRUE COPY OF THE JUDGMENT DATED 4-12-2014 IN
W.P(C)31082 OF 2014
- EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 1/6/2015 SUBMITTED
TO THE 1ST RESPONDENT.
- EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 1/6/2015 SUBMITTED
TO THE 5TH RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI,J.

W.P.(c) No. 17067 of 2015

Dated this the 09th day of June, 2015

JUDGMENT

Alleging inaction on the part of the fifth respondent in considering Exhibit P6 representation submitted by the petitioner, he has approached this Court.

2. Petitioner purchased a Maxi Spacecab, manufactured by ISUZU Motor India Pvt. Ltd., which is a 2 seated open body LMV Goods Carrier Truck, as per the classification made by the manufacturer. However, the petitioner intends to use it as a vehicle for personal use and hence Exhibit P3 application was submitted for permit under Private Service Vehicle, under Section 76 of the Motor Vehicles Act, 1988. As per the definition under Section 2 (33) of the Motor Vehicles Act, 1988, a vehicle used for personal use, for trade or business, without any hire charge or rewards will be classified as "private service vehicle", if the seating capacity of vehicle is more than 6 seats, excluding the driver. As per Section 2 (14), a vehicle is classified as "goods Carriage", if it is constructed and adapted for use solely for the carriage of goods. However, in the case of a vehicle which has multiple utility or multi use, like a Maxi Spacecab, which are commonly and usually used

for personal and own use of the owners, there is no specific classification. The legislature has not anticipated such multiple use of the vehicle or exclusive use of the goods carriage vehicle for personal and private use. Hence, the petitioner filed Exhibit P4 representation before the first respondent highlighting these anomalous situation. The petitioner submitted Exhibit P6 representation to the fifth respondent, Union of India, seeking removal of ambiguity in Section 2 (14) and Section 2 (33) of the Motor Vehicles Act, 1988, with respect to the vehicles constructed and adapted for multiple use and exclusive personal use by the user. The petitioner challenges the constitutional validity of Section 2(33) of the Motor Vehicles Act, 1988.

3. Heard the learned counsel for the petitioner and the learned Government Pleader in the matter. I have also heard the learned Central Government Counsel, Smt. H. Subhalekshmi for the fifth respondent.

Considering the nature of prayer and submission, this writ petition is disposed of directing the fifth respondent to consider and pass appropriate orders on Exhibit P6 representation within a period of one month 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 the fifth respondent at the earliest.

A.V. RAMAKRISHNA PILLAI
JUDGE

DMR/-