

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

WP(C).No. 17476 of 2015 (H)

PETITIONER(S):

**SREELATHA,
D/O. KRISHNAN NAIR, NANDANAM HOUSE,
PANNIYALI, OMALLUR VILLAGE,
KOZHENCHERRY TALUK , PATHANAMTHITTA.**

BY ADV. SRI.O.D.SIVADAS.

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
PATHANAMTHITTA- 689 645.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
PATHANAMTHITTA- 689 645.**

BY GOVT. PLEADER SMT.K.A. SANJEETHA.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONERS' EXHIBITS:

- | | |
|--------|---|
| EXT.P1 | THE COPY OF THE PERMIT. |
| EXT.P2 | THE COPY OF THE APPLICATION SUBMITTED BY THE
PETITIONER FOR RENEWAL OF PERMIT. |
| EXT.P3 | THE COPY OF THE APPLICATION SUBMITTED BY THE
PETITIONER DATED 22/5/2015. |
| EXT.P4 | THE COPY OF THE DECLARATION SUBMITTED BY THE
PETITIONER. |

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

PA. TO JUDGE

rs. S

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.17476 of 2015

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Dated this the 11th day of June, 2015

JUDGMENT

The petitioner alleges that Ext.P2 application for renewal is kept pending by the respondents without passing any orders.

2. The petitioner is an existing stage carriage operator on the route Pandalam - Pathanamthitta and the permit was issued in respect of stage carriage bearing No.KL 10/R 950 which was valid upto 20.4.2015. It is stated that the above vehicle is hypothicated with M/s.Sriram Transport Finance and substantial amount due to the financier has already been paid. In spite of request submitted by the petitioner, NOC was not issued by the financier.

3. The petitioner alleges that financier has demanded exorbitant amount for issuance of NOC. It is further stated that considering the date of expiry of the permit, she had already submitted an application for renewal of permit which was not considered since NOC from the financier was not produced along with the application. The petitioner points out that as per Section 71 of the Motor Vehicles Act, NOC of the financier is to be

submitted along with the application for renewal. If the financier had not issued NOC in spite of the request made by the petitioner within the statutory period, the same deemed to have been issued by the financier as per Section 51(7) of the Act. She alleges that a declaration to this effect was also submitted by her. Therefore, according to her, there is no justification in insisting for NOC of the financier in lieu of declaration as per Section 51(8) of the Act.

4. Here, Ext.P3 request was received by the financier on 26.5.2015 and the statutory period expired on 1.6.2015; it is alleged. According to the petitioner, since there is deemed grant of NOC in view of Section 51(7) of the Act, there is no impediment in considering the application for renewal. It is with this background, this writ petition is filed.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader.

6. The learned Government Pleader on instructions submitted that the non-consideration of the petitioner's application was on account of the No Objection Certificate (NOC) from the financier. As it is open to the respondents to consider the objection of the financier, this writ petition is disposed of to consider and pass

orders on Ext.P2 application for renewal after affording the petitioner as well as the financier an opportunity of being heard. This shall be done within a period of two weeks from the date of receipt of a copy of this judgment.

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

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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