

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No.17543 of 2015 (P)

PETITIONER:

**JOSHY A.CHEMPARATHY,S/O.AUGUSTINE,
CHEMPARATHICKAL HOUSE,HOUSE NO.19/197,
MUTHALAKODAM,THODUPUZZHA.**

**BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.**

RESPONDENT'S:

- 1. THE JOINT REGIONAL TRANSPORT OFFICER,
THODUPUZZHA-685584.**
- 2. ASSISTANT MOTOR VEHICLE INSPECTOR,
SUB REGIONAL TRANSPORT OFFICE,
PUNALUR-691305.**
- 3. SUB INSPECTOR OF POLICE,PUNALUR-691305.**
- 4. THE TRANSPORT COMMISSIONER,
TRANS TOWERS,VAZHUTHACAUD,
THIRUVANANTHAPURAM-695014.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.17543 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE REISTRATION PARTICULARS RELATING TO VEHICLE
NO.KL-33A-3336.

EXT.P2:TRUE COPY OF THE CIRCULAR NO.14/2013 ISSUED BY THE TRANSPORT
COMMISSIONER.

EXT.P3:TRUE COPY OF THE CIRCULAR NO.2/2014 DT.10-3-14 ISSUED BY
TRANSPORT COMMISSIONER.

EXT.P4:TRUE COPY OF THE APPLICATION DT.1-7-2014 SUBMITTED BY THE
PETITIONER BEFORE THE R1.

EXT.P5:TRUE COPY OF THE CHECK REPORT DT.9-6-15 ISSUED BY R2.

EXT.P6:TRUE COPY OF THE TAX DETAILS OF THE VEHICLE REGISTERED AT
ALAPPUZHA ON 18-9-14.

EXT.P7:TRUE COPY OF THE INFORMATION DATED 01.11.2014 ISSUED FROM THE
OFFICE OF THE TRANSPORT COMMISSIONER AT
THIRUVANANTHAPURAM.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 17543 of 2015

Dated this the 8th day of July, 2015

J U D G M E N T

Aggrieved by the refusal to register the vehicle mentioned in Ext.P1 as omni bus for private use, the petitioner has come up before this Court.

2. The petitioner purchased a 2008 model Tempo Traveller bearing Reg.No.KL-33A-3336 to use as campers van for private use and the ownership was transferred in the name of the petitioner on 13.06.2014 by the 1st respondent. The petitioner alleges that despite the issuance of Ext.P2 circular, the 1st respondent refused to honour the said circular. Hence, the petitioner was compelled to pay tax applicable to contract carriage vehicle with a seating capacity of 20 seats paying ₹24,680/- as per Ext.P1. In the meantime, the 2nd respondent seized the vehicle alleging that the vehicle has been used without payment of tax; and the 2nd

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respondent has entrusted the vehicle for safe custody with the 3rd respondent. The petitioner is aggrieved by the attitude of the 1st respondent in refusing to accept tax for the vehicle and is aggrieved by the seizure and detention of the vehicle at Punalur with the 3rd respondent. Hence, this writ petition.

3. A counter affidavit has been filed by the 1st respondent contending that the application of the petitioner for alteration of the vehicle was rejected as per Ext.R1(a) as the petitioner's vehicle belongs to category M2 and alteration as camper van is permissible for a vehicle that comes under category M1 as provided in the Central Motor Vehicles Rules. It was further contended that the petitioner's prayer for a direction to receive tax according to Exts.P2 & P3 cannot be entertained as the vehicle of the petitioner is registered in the category of M2 as a contract carriage. According to them, Exts.P2 & P3 are no longer relevant in view of the subsequent amendments in the Motor Vehicles Taxation Act, 1976.

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4. Arguments have been heard.

As the conversion of the vehicle was without permission and the tax applicable to the contract carriage has not been paid by the petitioner, the writ petition is disposed of directing the petitioner to pay the tax applicable to the contract carriage and in the event of payment of tax, the petitioner's application for registration shall be considered by the respondent within a period of three weeks thereafter.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-