

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYASHTA, 1937

WP(C).No. 17619 of 2015 (B)

PETITIONER(S) :

**AMMINI THOMAS,
KOTTAMALA HOUSE, MEPPADI , VYTHIRI,
KALPETTA, WAYANAD DISTRICT.**

BY ADV. SRI.P.DEEPAK

RESPONDENT(S) :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
WAYANAD- 673 001.**

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: A TRUE COPY OF THE REGULAR PERMIT ISSUED TO KL-37/2182 VALID
TILL 23/07/2018.**
- P2: A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF KL-37/2182.**
- P3: A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF KL-12/K 1006.**
- P4: A TRUE COPY OF THE APPLICATION FOR REPLACEMENT
DATED 29/05/2015.**
- P5: A TRUE COPY OF G.O.(P)93/2014/TRAN DATED 29/12/2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 17619 of 2015

Dated this the 17th day of June, 2015

J U D G M E N T

The petitioner seeks a direction to the respondent to consider and dispose of Ext.P4, which was submitted by the petitioner for replacement of the existing vehicle with a later model vehicle.

2. The petitioner is regular permit holder on the route between Chellangode and Kalpetta in respect of a 2006 model vehicle with seating capacity of 28 in all, which is valid till 23.07.2018. As the said vehicle has become unfit for being operated, he submitted Ext.P4 application for replacing the said vehicle with a 2015 model vehicle with a seating capacity of 38 in all. However, the 2nd respondent is refusing to endorse the replacement for the reason that the incoming vehicle and the outgoing vehicle are materially different. Hence, this writ petition.

..2..

3. I have heard the learned counsel for the petitioner as well as the learned Government Pleader in the matter.

4. The objection raised by the respondent was that the incoming vehicle and the outgoing vehicle are materially different. The only material question to be considered is regarding the viability of the vehicle concerned. The issue is no longer res integra and is covered by the judgments of this Court, wherein this Court has declared that the authority is bound to look into the viability of the vehicle proposed to operate on the route in question and not its model. As the seating capacity of the incoming vehicle is 38, the public exchequer as well as the public would be benefited by the replacement.

5. Considering the matters now placed on board, this Court is of the view that the respondent can be directed to consider and dispose of Ext.P4 application submitted by the petitioner within a time frame.

..3..

Therefore, this writ petition is disposed of directing the respondent to consider Ext.P4 application submitted by the petitioner in the light of what has been stated above, after affording the petitioner an opportunity of being heard. The entire exercise shall be completed within a period of three weeks from the date of receipt of a copy of this judgment.

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

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-