

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 JYAISHTA, 1937

WP(C).No. 17650 of 2015 (E)

PETITIONER(S) :

**NIBU JOSEPH,
VADAKKEMURIYIL HOUSE, ERAVIPEROOR P.O.,
THIRUVALLA, PATHANAMTHITTA.**

BY ADV. SRI.P.DEEPAK

RESPONDENT(S) :

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

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

**EXT.P1: A TRUE COPY OF THE REGULAR PERMIT ISSUED TO KL-37/6116
VALID TILL 30/08/2015.**

**EXT.P2: A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF
KL-37/6116.**

**EXT.P3: A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF
KL-05/Q 4902.**

**EXT.P4: A TRUE COPY OF THE APPLICATION FOR REPLACEMENT
DATED 10/06/2015.**

**EXT.P5: TRUE COPY OF THE JUDGMENT DATED 09/04/2015 IN
WP(C).NO.11922 OF 2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 17650 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 an older model vehicle.

2. The petitioner is regular permit holder on the route between Karackal and Erumely in respect of a 2008 model vehicle with seating capacity of 48 in all, which is valid till 30.08.2015. He submitted Ext.P4 application for replacing the said vehicle with a 2003 model vehicle with a seating capacity of 48 in all, i.e., the same seating capacity as of the outgoing vehicle. However, the 2nd respondent is refusing to endorse the replacement for the reason that the incoming vehicle is an older model vehicle. Hence, this writ petition.

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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 is an older model vehicle than the the outgoing vehicle. 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.

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.

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

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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/-