

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(C).No. 17879 of 2015 (H)

PETITIONER :

**SAMSON, S/O.LONA,
THOPPIL HOUSE, P.O.IRINJALAKUDA,
THRISSUR DISTRICT.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT :

**THE JOINT REGIONAL TRANSPORT OFFICER,
(SUB REGIONAL TRANSPORT OFFICER),
JOINT REGIONAL TRANSPORT OFFICE,
IRINJALAKUDA- 680 121**

BY GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 17879 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE NO.KL 45 E/875**
- P2: COPY OF THE PERMIT OF PETITIONER'S VEHICLE NO. KL 45 E/875**
- P3: COPY OF THE TAX TOKEN OF PETITIONER'S VEHICLE NO. KL 45 E/875 FOR THE PERIOD FROM 01.04.2014 TO 31.12.2014**
- P4: COPY OF THE RELEVANT PORTION OF THE ORIGINAL REGISTRATION CERTIFICATE OF THE VEHICLE**
- P5: COPY OF THE ORIGINAL PERMIT ISSUED BY THE KARNATAKA AUTHORITY FOR THE PETITIONER'S VEHICLE**
- P6: COPY OF THE ORDER DATED 31.03.2014 IN WPC.NO.8446/2014 ISSUED BY THIS HONOURABLE COURT**
- P7: COPY OF THE JUDGMENT IN WPC.NO.13332/2015**
- P8: COPY OF THE NOTICE DATED 27.05.2015 ISSUED BY THE RESPONDENT**
- P9: COPY OF THE ORDER DATED 30.05.2015 ISSUED BY THE RESPONDENT**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.17879 of 2015

Dated this the 19th day of June, 2015

JUDGMENT

The petitioner is the registered owner of a contract carriage bearing registration No.KL-47 E/875. The petitioner submits that he is only having a seating capacity with 13. The petitioner submits that he need to pay tax only for the seating capacity of 13. The petitioner refers to the earlier permit granted. However, the petitioner submits that for the renewal, the authority insisted for payment of 15 seats. This Court in earlier round directed the Authority to inspect the vehicle and accept tax. Thereafter, the impugned order is passed. In the impugned order, it is held that considering the wheel base, the seating capacity is 15 and therefore, the petitioner is liable to pay tax for 15 seats. The petitioner challenges the above order stating that it is a patent illegality in the order in view of the fact that the vehicle is having only 13 seats.

2. Learned Government Pleader points out that this order is appealable and the petitioner cannot invoke jurisdiction of this Court.

3. However, the learned counsel for the petitioner submits that the petitioner is eking out his livelihood from the operation of the vehicle and he is unable to operate on account of the non-acceptance of tax and non-renewal of the certificate.

Considering the fact that, I am of the view, the seating capacity as noted in the registration certificate is only 13, the petitioner may be provisionally permitted to pay tax for 13 seating capacity, subject to challenge being made by the petitioner as against Ext.P9 order. Therefore, accepting tax provisionally from the petitioner for the seating capacity of 13 seats and be satisfied with other conditions, the petitioner's certificate for fitness may be renewed subject to outcome of the appeal to be filed by the petitioner as against Ex.P9. If the petitioner fails to file an appeal or the decision is not otherwise reversed by the Appellate Authority, the petitioner will not be entitled for the benefit of the judgment for future.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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