

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 18984 of 2014 (W)

PETITIONER(S):

C.K. BALAKRISHNAN
CHEMBANPADATH HOUSE, KADAMPAZHIPURAM.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

1. THE REGIONAL TRANSPORT AUTHORITY
PALAKKAD - 678 001.
2. THE SECRETARY
REGIONAL TRANSPORT AUTHORITY, PALAKKAD - 678 001.
3. N.V. RANJITH
VATHAMKOLLI HOUSE, MANNAMPATTA, SREEKRISHNAPURAM
PALAKKAD - 678 001.

BY SRI.K.V.GOPINATHAN NAIR
BY GOVERNMENT PLEADER SRI. R. RANJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 18984 of 2014 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE PROCEEDINGS DATED 27/09/2006.

EXHIBIT-P2-TRUE COPY OF THE PROCEEDINGS DATED 05/02/2008.

EXHIBIT-P3-TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT
DATED 17/07/2012.

EXHIBIT-P4-TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT
DATED 26/06/2013.

EXHIBIT-P5-TRUE COPY OF THE MEMORANDUM OF APPEAL MVAA N.
359/2013 FILED BEFORE THE STAT.

EXHIBIT-P6-TRUE COPY OF THE JUDGMENT OF THE STAT DATED 26/06/2014
IN MVAA 359/2013.

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P.S. To Judge

K.VINOD CHANDRAN, J

W.P.(C).No. 18984 of 2014

Dated 10th March, 2015

JUDGMENT

The petitioner challenged Ext.P6 order of the State Transport Appellate Tribunal (STAT). Admittedly, the petitioner had a permit which is seen at Ext.P1 issued on 27.09.2006 in a route Muriyankannikkadavu - Palakkad. While the petitioner was operating in the route, he sought for a variation as is indicated in Ext.P2. Variation sought for was as follows :-

- i. Extension from Kadampazhipuram to Kulakkattukurissi
- ii. Extension from Karimpuzha to Kulakattukurissi.
- Iii. Extension from Poovathani to Cherplassery Via Thootha.
- iv. Change of halting place from Kadampazhipuram to Kulakattukurissi.

2. The RTA granted the same. Admittedly, there is an extension of 21 Kms., in such variation sought. The petitioner is said to have

not sought endorsement in the permit; of the variation granted by Ext.P2. The petitioner is said to have continued to operate the route as per Ext.P1.

3. Subsequently, the petitioner applied for another variation as per Ext.P3, which, according to the petitioner, is on the ground that a new bridge was constructed and there was no service through the bridge. Ext.P3 sought for curtailment and deviation of the route. Admittedly, there was an extension of 19 Kms, when such variation was sought from the original permit at Ext.P1. The petitioner did not disclose the fact that there was a variation granted as per Ext.P2. The RTA rejected the claim on the ground that, since a variation was already granted by 21 Kms, a further variation leading to extension of 19 Kms, would be hit by sub-section (3) of Section 80 of the Kerala

Motor Vehicles Act, 1988 (for short 'the Act').

4. The learned counsel for the petitioner would submit that, since the earlier variation as per Ext.P3 was not got endorsed in the permit, application has to be considered as one seeking variation of Ext.P1 which would save the application from the rigour of sub-section (3) of Section 80. The learned counsel appearing for the 3rd respondent however, would counter the same on the contention that the petitioner cannot now seek variation since already a variation was granted and if no endorsement is obtained, then necessary consequence is the cancellation of the permit. It is also contended that, the present route suggested by the petitioner, on the basis of a variation, would have an objectionable overlap on a notified route.

5. Sub-section (3) of Section 80 of the Act, with its proviso, reads as under:-

(3). An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or a new area or by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit:

Provided that it shall not be necessary so to treat an application made by the holder of stage carriage permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles

provided further that,-

(i).in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty-four kilometres;

(ii).in the case of extension, the distance covered by extension shall not exceed twenty-four kilometres from the termini,

and any such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a

separate permit in respect of the original route as so varied or extended or any part thereof.

6. Any extension sought in a regular permit can only be within 24 Kms. It is to be specified that, the mandate restricts 24 Kms in any extension sought on a regular permit and not on each extension or variation sought. Hence, once the petitioner had sought for an extension of 21 Kms, petitioner would be prohibited from seeking a further variation with a further extension of 19 Kms, which would be hit by the specific prohibition in the proviso to sub-section (3). The fact that the petitioner did not get the variation endorsed in his permit, is of no consequence. If that be permitted, the regular permit holders could seek for extension in a piecemeal manner all within 24 Kms under the proviso to sub-section (3) of Section 80. Further, variation also could be sought and not got endorsed which would enable subsequent

variations and if such an interpretation is given, that would go against the prohibition intended in sub-section (3).

7. In such circumstances, this Court does not find any infirmity in Ext.P6 order. It is also to be mentioned that, attempt of the petitioner now to obtain a deviation is to save the prohibition of issuance of new regular permit in a notified Scheme, since admittedly, there is an objectionable overlap of a notified route in the curtailment and deviation sought.

In the above circumstances, the writ petition is found to be devoid of merit and the same is dismissed. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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