

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 18771 of 2015 (V)

PETITIONER(S):

**SAIDALAVI,
S/O. MUHAMMED, CHULLIYAN, ERANI HOUSE,
ARAKKAPPADI P.O., CHERUKAVU, MALAPPURAM DISTRICT.**

BY ADV. SRI.SAJU J.VALLYARA

RESPONDENT(S):

- 1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, MALAPPURAM-676 505.**
- 2. THE STATE TRANSPORT AUTHORITY,
KERALA, REPRESENTED BY ITS SECRETARY,
TRANSPORT COMMISSIONERATE,
THIRUVANANTHAPURAM-695 039.**

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26-06-2015 THE COURT ON 03-07-2015, DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 18771 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : PHOTOCOPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT VIDE ORDER
NO.G2/25246/95M DTD.24.8.1996.**

**P2 : PHOTOCOPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT VIDE
NO.D3/875/STA/2005 DTD.8.11.2011.**

**P3 : PHOTOCOPY OF THE GUIDELINES ISSUED BY THE TRANSPORT
COMMISSIONER, THIRUVANANTHAPURAM, VIDE NO.D3/875/STA/2011
DTD.4.11.2011.**

**P4 : PHOTOCOPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT VIDE ORDER
NO.G2(D3)/1625/2013/M DTD.20.1.2015.**

**P5 : PHOTOCOPY OF THE OBJECTION SUBMITTED BY THE PETITIONER BEFORE
THE 1ST RESPONDENT ON 18.6.2015.**

P6 : PHOTOCOPY OF THE ORDER IN WPC NO.10185 OF 2014-W DTD.7.4.2014.

P7 : PHOTOCOPY OF THE JUDGMENT IN WPC NO.10185 OF 2014-W DTD.13.10.2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.18771 of 2015

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Dated this the 3rd day of July, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 by which the petitioner's timing was revised *suo moto* by the respondent which according to the petitioner is in violation of Exts.P2 and P3.

2. The petitioner is conducting a regular stage carriage service on the route between Kozhikode and Karakkode with his stage carriage bearing No.KL-10-T-9156 on the basis of Ext.P1 timings. By Ext.P2 proceedings, the second respondent has prescribed the running time in respect of stage carriage on the basis of the nature of the roads. Now, the first respondent in total violation of the Ext.P3 guidelines, *suo moto* revised the timings of the petitioner's service as per Ext.P4 enhancing the existing running time and changing the existing timings resulting in impossibility of the operation of service. It is with this background, the petitioner has come up before this Court.

3. Heard the learned counsel for the petitioner and the learned Government Pleader in the matter.

4. The learned counsel for the petitioner would argue that Ext.P4 was passed without following the procedure prescribed under Rule 212 of the Motor Vehicles Rules as well as the guidelines prescribed in Ext.P3 and also in violation of the principles of natural justice. Evidently, the first respondent has *suo moto* revised the timings of the petitioner's service by enhancing the running time and changing the existing timings which according to the petitioner is virtually impossible to put into operation. Therefore, the learned counsel for the petitioner would submit that Ext.P4 is illegal, arbitrary and unsustainable.

5. The learned Senior Government Pleader, *per contra*, inviting my attention to Ext.P4 would submit that the petitioner was permitted to submit his objections within a period of three months. However, he did not file the objection within the time.

6. It is true that three month's time was given to file objections. However, it has to be noted that Ext.P4 dated 20.1.2015 was a *suo moto* revision and the same has been effected with effect from 25.2.2014. The revision of timings should have been done after inviting objections and finalizing the same in

accordance with Rule 212 of the Motor Vehicles Rules. Therefore, this Court is of the view that Ext.P4 calls for an interference.

In the result, the writ petition is allowed. Ext.P4 is quashed. The respondent is directed to reconsider the issue after affording the petitioner and affected parties an opportunity of being heard in a timing conference to be fixed within a period of one month from the date of receipt of a copy of this judgment.

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

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

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