

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No. 18811 of 2015 (B)

PETITIONER :

**GIREESHAN,
S/O.KUNHAPPAN, MV HOUSE, RAMANTHALI P.O.,
THALIPPARAMB, KANNUR DISTRICT.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KASARGOD- 671 121**

BY GOVERNMENT PLEADER SMT. K.A.SANJEETHA

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

sts

WP(C).No. 18811 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE PERMIT DATED 16.02.2012**
- P2: TRUE COPY OF THE APPLICATION DATED 05.06.2015 SUBMITTED BY THE PETITIONER**
- P3: TRUE COPY OF THE PROCEEDING DATED 8.06.2015**
- P4: TRUE COPY OF THE JUDGMENT DATED 05.09.2008 IN WPC.NO.12680/2008**

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

/TRUE COPY/

P.A.TO JUDGE

sts

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 18811 of 2015

Dated this the 26th day of June, 2015

J U D G M E N T

The petitioner is seeking a positive direction from this Court to the respondent to consider Ext.P2 to grant replacement.

2. The petitioner is an existing stage carriage operator, operating on the route between Thalappacheri and Kasargod as per Ext.P1 permit issued in respect of his vehicle bearing Reg.No.KL-13 J/1939. On account of the bad condition of the vehicle, the petitioner applied for replacement of the said vehicle by a new model vehicle by retaining the permit under suspended animation. The Secretary, RTA has not specified any time limit for replacement of the vehicle and no communication has been received by the petitioner till date regarding replacement. Now, the respondent declined to grant replacement on the ground the petitioner has not produced NOC along with the application for replacement. According to the petitioner, the replacement of stage carriages is governed by Section 83 of the Motor Vehicles Act r/w Rule 174 of the Kerala Motor Vehicle Rules and the act or rules do not contemplate for

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production of no objection certificate of financier for replacing the old vehicle by a later model vehicle and there is no justification to deny the replacement. It is in this context, the petitioner has come up before this Court.

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

5. The learned counsel for the petitioner, inviting my attention to Ext.P4, submitted that the replacement of stage carriages does not amount to change in class attracting Section 1(6), unlike a taxi car; and therefore, no NOC is required for replacement.

In the light of the above, the writ petition is disposed of directing the respondent to permit replacement de hors Ext.P3, if the application is otherwise in order, within a period of two 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/-