

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C).No. 19192 of 2015 (Y)

PETITIONER(S):

**P.K. SUGATHAN,
KALAPPURAKAL HOUSE, MARADU P.O., ERNAKULAM.**

BY ADV. SRI.G.PRABHAKARAN

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY, ERNAKULAM.
PIN-682 030, REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, ERNAKULAM-682 030.**

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-07-2015 THE COURT ON 29-07-2015, DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 19192 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : TRUE COPY OF THE PROCEEDINGS GRANTING REGULAR PERMIT WITH ITS
NO.G/197745/2013/E DATED 5-8-2014.**

**P2 : TRUE COPY OF THE ADJOURNMENT PROCEEDINGS OF THE RTA ERNAKULAM
WITH ITS NO.G/210138/2014/E DATED 13-2-2015.**

P3 : TRUE COPY OF THE JUDGMENT DATED 12-5-2015 IN WPC.NO.14120/2015.

**P4 : TRUE COPY OF THE TEMPORARY PERMIT WITH ITS PERMIT
NO. P. TEM. 7/1134/2015 DATED 18-5-2015.**

**P5 : TRUE COPY OF THE PROCEEDINGS OF THE RTA ERNAKULAM WITH ITS
NO.G/RTA/4/2000/E DTD.4.4.2000.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.19192 of 2015

Dated this the 29th day of July, 2015.

JUDGMENT

Aggrieved by the non-consideration of the application for grant of regular permit on an inter district route for a distance of 9.7 km. within the jurisdiction of the RTA, Alappuzha, the petitioner has come up before this Court. The petitioner alleges that the matter has been indefinitely adjourned as per Ext.P2 proceedings dated 13.2.2015.

2. The petitioner is a regular stage carriage permit holder operating on the route between Perumbalam and Edappally Railway Gate with stage carriage KL-7/BA 1044. The petitioner alleges that this is the only service operating on the route in question and by operating on the route, it is found that the transport requirement is not adequate enough on this sector. Therefore, he applied for one more regular permit on the very same route, by offering another vehicle bearing registration No.KL 5/K 5627. That application for grant of

permit has come up for consideration by the RTA on its meeting held on 13.2.2015 and the Regional Transport Authority adjourned the matter unnecessarily with reasons unconnected with the grant of permit; it is alleged. The petitioner points out that the RTA, Ernakulam has specified that only 9.7 kms lie within the jurisdiction of RTA, Alappuzha and therefore no concurrence is needed from RTA, Alappuzha. There is general concurrence for all RTAs upto 10 kms. The first respondent had the opportunity to consider the same matter when the petitioner himself was granted with same permit on the same route as evidenced by Ext. P2. There is no difference between Exts. P1 and P2. It seems the adjournment is willful in order to help some of the existing operators and hence Ext.P2 adjournment is unwanted, unjustified, arbitrary, malafide, in excess of jurisdiction and the matter requires urgent finalization in the forthcoming meeting of the RTA; it is alleged. The petitioner also points out that it is not possible for the Secretary, RTA to consider the adjourned item without

orders from this Court. The petitioner though filed a writ petition as W.P.(C) No.14120 of 2015, against non-consideration of regular permit as well as temporary permit application, during vacation court, this Court observed that for regular permit separate writ may be filed and due to urgency, temporary permit was ordered to be issued. Accordingly, the petitioner is operating on this route on the strength of temporary permit, but the regular permit application has to be considered; it is alleged.

3. In the statement filed by the second respondent, it is contended that if the route length is above 10 Kms., concurrence from sister RTAs is inevitable for granting/renewing permit routes lying in the adjacent district. It is also stated that after hearing the parties, the STA has held that the general concurrence is granted for renewal of permit for routes lying in neighbouring districts not exceeding 20 kms. According to the second respondent, Annexure R2(a) is applicable for the renewal of existing permits only.

4. I have heard the learned counsel for the petitioner and the learned Senior Government Pleader in the matter.

5. The learned counsel for the petitioner would contend that as per Annexure R2(a), there is general concurrence for renewal upto 20 kms. The learned counsel for the petitioner relied on Ext.P5 decision of the respondent dated 4.4.2000 by which the concurrence was granted upto 10 kms. from the District border without violating any nationalised scheme for the issue and renewal of permit. Therefore, it was argued that the present position is that there is concurrence for issue/grant of permit upto 10 kms. and for renewal of permit upto 20 kms. It is also argued that as per Ext.P1, a regular permit on the same route was granted to the petitioner himself treating that there is general concurrence for the grant of permit upto 10 kms.

6. However, as rightly submitted by the learned Senior Government Pleader that Annexure R2(a) produced along with the statement of the second respondent is applicable to the

renewal of the existing permits only. In the present case, the petitioner has applied for grant of a new regular permit for which the concurrence of RTA, Alappuzha is necessary.

As the RTA, Alappuzha is the sole authority to ascertain the scheme violation of the notified route, the writ petition is disposed of permitting the petitioner to obtain concurrence from the RTA, Alappuzha in the matter and if the permission is accorded by the RTA, Alappuzha, the same shall be considered by the second respondent, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.