

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. 20130 of 2015 (M)

PETITIONER(S) :

**HABEEB,
S/O.AZEEZ.P.K, PALLIPARAMPIL HOUSE, VAZHAPPALLY.P.O,
CHANGANACHERRY.**

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENT(S) :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM, PIN- 686 002.**

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-07-2015, THE COURT ON 29-07-2015 DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN
 W.P(C).NO.16914/2015 DATED 08.06.2015.**
- EXT.P2: TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT
 DATED 22.06.2015 GRANTING TEMPORARY PERMIT TO
 THE PETITIONER.**
- EXT:P3: TRUE COPY OF THE LETTER PRODUCING THE CURRENT
 RECORDS DATED 30.06.2015 REQUESTING TO ISSUE
 THE GRANTED TEMPORARY PERMIT.**
- EXT.P4: TRUE COPY OF THE REGULAR PERMIT APPLICATION SUBMITTED
 BY THE PETITIONER BEFORE THE RESPONDENT
 DATED 06.03.2015.**

RESPONDENT(S)' ANNEXURES :

- ANNEXURE A: TRUE COPY OF THE REGULAR PERMIT WITH RESPECT OF
 SC KL 03 H 2416.**

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 20130 of 2015

Dated this the 29th day of July, 2015

J U D G M E N T

The petitioner has approached this Court for a direction to the respondent to issue a temporary permit, which has already been granted to the petitioner as per Ext.P2.

2. Pending consideration of the regular permit application, the petitioner filed temporary permit application to operate on the route between Kottaramattom Bus Stand Pala and Kozhencherry. Since there was delay in considering the said application, the petitioner approached this Court; and this Court, as per Ext.P1 judgment, directed the respondent to consider the application for temporary permit; and accordingly, temporary permit has been granted as per Ext.P2. The petitioner produced the current records in respect of another vehicle, which was already available to him

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requesting for the issue of granted permit. The petitioner's grievance is that now the respondent is refusing to issue the granted permit, stating that the vehicle mentioned is another vehicle in the application. According to the petitioner, the refusal to issue the granted permit is absolutely improper, illegal and against the well settled decisions of this Court. The petitioner points out that even for the grant of a permit, there need to be a vehicle and the obligation on the part of the grantee is to obtain the permit for a suitable vehicle. According to the petitioner, unless the permit is issued immediately, the very purpose of the grant of permit would be defeated. Hence, this writ petition.

3. In the statement filed by the respondent, it is stated that the Secretary of the RTA granted 20 days' temporary permit in compliance of Ext.P1 judgment in respect of stage carriage bearing Reg.No.KL -3 H 2416. The applied route is an inter district route and the Secretary is competent to grant only 4 months' temporary

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permit on such routes. It was pointed out that the petitioner has produced the current records of stage carriage bearing Reg.No.KL-05/M 6420 owned by one Santhosh Joseph, Kadanthottu House, Changanacherry as evident from Ext.P3. He has also produced a lease deed between the owner of the vehicle and the petitioner. However, the lease deed has not been endorsed on the registration certificate. It was further pointed out that as the direction by this Court was to grant temporary permit to stage carriage bearing Reg.No.KL 03 H 2416, the Secretary, RTA is not in a position to issue temporary permit granted in respect of stage carriage No.KL -3 H 2416 to another vehicle. It was further contended that though the petitioner submitted temporary permit application stating urgent temporary need, he is not having a ready vehicle to conduct service for the granted temporary permit; and therefore, according to the respondent, it is clear that the petitioner is not enough sound to operate a stage carriage service.

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4. The petitioner has filed a reply affidavit to the statement filed by the respondent.

5. Arguments have been heard.

6. It was pointed out by the learned counsel for the petitioner that offering of a vehicle at the time of submission of application or at the time of consideration of application is not a requirement as per the decision of the Full Bench reported in 1980 KLT 249. It was further pointed out that the only obligation on the part of the grantee is to produce the records of a suitable vehicle within the statutory period for availing granted permit.

7. In this case, the petitioner has submitted Ext.P4 application for regular permit. In the said application, the petitioner offered stage carriage bearing Reg.No.KL -3 H 2416 or another suitable vehicle. Therefore, according to the petitioner, after the grant of regular permit, he can either avail the permit for the stage carriage bearing Reg.No.KL -3 H 2416 by obtaining permitless certificate in respect of that vehicle or he can

produce the current records of any suitable vehicle for availing permit. Therefore, according to the learned counsel for the petitioner, it is absolutely unnecessary to procure a vehicle first, and then, to submit the application and keep the vehicle idle till the issue of the regular permit. The learned counsel for the petitioner also relied on a decision by this Court in **Vinod Thomas v. RTA, Kottayam** [1999 (2) KLJ 1092], wherein it was held that there can be a change in respect of the vehicle after granting and before the issuance of the permit.

8. The learned senior Government Pleader, per contra, would submit that the said decision was rendered in the case of issue of regular permit; and therefore, it is not applicable in the case of the petitioner as the case is in respect of temporary permit. However, going through the aforesaid decision, this Court is of the view that such a classification cannot be attributed to the said decision. The aforesaid decision is applicable to regular permit as well as temporary permit. Therefore, the refusal to issue

permit, that too, for a 20 days' temporary permit, is absolutely improper. Therefore, the petitioner is entitled to succeed.

In the result, the writ petition is allowed. The respondent is directed to issue temporary permit already granted to the petitioner as per Ext.P2 on the route, Kottaramattom Bus Stand Pala - Kozhencherry, for stage carriage bearing Reg.No.KL-05/M 6420, in respect of which, the petitioner has produced the current records as per Ext.P3, within a period of one week from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-