

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 20695 of 2014 (J)

PETITIONER(S)/PETITIONERS:-:

- 1. VATAKARA TALUK PRIVATE BUS OPERATORS ASSOCIATION
REPRESENTED BY THE GENERAL SECRETARY
GOPALAN NAMBIAR K.K.**
- 2. P.K.PAVITHRAN,
PULICKOL THAZHAKUZHIL HOUSE, VATAKARA.**

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENT(S)/RESPONDENTS:-:

- 1. THE REGIONAL TRANSPORT OFFICER,VATAKARA
(SECRETARY, R.T.A, VATAKARA) VATAKARA
PIN - 673 101.**
- 2. THE PRINCIPAL,
HI-TECH INSTITUTE OF TECHNOLOGY, NEAR ASHOKA TALKIES
VATAKARA, KOZHIKODE - 673 101.**
- 3. THE PRINCIPAL,
ARABINDO INSTITUTE OF COMMERCE MANAGEMENT AND
TECHNOLOGY
NEAR SYNDICATE BANK, EDODI, VATAKARA
PIN - 673 101.**
- 4. THE C-APT MULTIMEDIA ACADEMY,
IT SAMURAI, NEW BUS STAND, VATAKARA
PIN - 673 101.**
- 5. VIMS PARA MEDICAL INSTITUTION,
VIMS HOSPITAL, KALLACHI, KOZHIKODE
PIN - 673 020.**

R2-R5 BY ADV. SRI.K.MOHANAKANNAN

R2-R5 BY ADV. SMT.A.R.PRAVITHA

R1 BY ADV. GOVERNMENT PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE NOTIFICATION ISSUED BY THE GOVERNMENT DATED 9-11-2012.

EXHIBIT P2- TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 22-1-2014.

EXHIBIT P3- TRUE COPY OF THE LETTER RECEIVED BY THE PETITIONER ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P3(a)- TRUE COPY OF THE ORDER DATED 24-4-2013 ISSUED BY THE SECRETARY, KERALA STATE ELECTRICITY LICENSING BOARD.

EXHIBIT P3(b)- TRUE COPY OF THE ORDER ISSUED BY THE DIRECTOR, CALICUT UNIVERSITY DATED 29-8-2013.

EXHIBIT P3(c)- TRUE COPY OF THE ORDER OF THE GOVERNMENT DATED 19-10-2011.

EXHIBIT P(d)- TRUE COPY OF THE LETTER OF THE INDUSTRIAL TRAINING DEPARMENT DATED 31-7-2013.

RESPONDENT(S)' EXHIBITS:

EXT.R2(a) COPY OF THE ORDER NO.M2 2175/04/CE1 DTD.23.6.04.

EXT.R2(b) COPY OF THE ONE OF SUCH IDENTITY CARD (PRAJITH P.M).

EXT.R2(c) COPY OF THE JUDGMENT IN WP(C) 19050/2013 DTD.14.8.13.

EXT.R2(d) COPY OF THE HALL TICKET DATED 31.5.14 ISSUED TO ONE OF THE STUDENTS NAMELY NOUFAL BY THE KERALA STATE ELECTRICITY LICENSING BOARD.

EXT.R2(e) COPY OF THE HALL TICKET DATED 19.8.14 FOR PRACTICAL EXAMINATION OF NOUFAL.

EXT.R3(a) COPY OF AFFILIATION CERTIFICATE ISSUED BY BHARATIAR UNIVERSITY DATED 24.5.13 WITH THE DETAILS OF THE STUDENTS FURNISHED BEFORE THE 1ST RESPONDENT.

EXT.R4(a) COPY OF THE LETTER SENT BY THE MANAGING DIRECTOR CAPT, TRIVANDRUM TO THE PETITIONER DATED 14.6.13.

WP(C).No. 20695 of 2014 (J)

- EXT.R5(a) COPY OF THE PROCEEDINGS OF THE INDUSTRIAL TRAINING DEPARTMENT DATED 31.7.13 WITH DETAILS OF THE COURSES.
- EXT.R5(b) COPY OF THE LIST OF STUDENTS FOR THE YEAR 2013-2014 SUBMITTED BEFORE THE GOVERNMENT OF INDIA AND 1ST RESPONDENT.
- EXT.R5(c) COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DATED 30.10.13.

// TRUE COPY //

P.A TO JUDGE.

K. VINOD CHANDRAN, J.

=====

W.P.(C) No.20695 of 2014 - J

=====

Dated this the 23rd day of January, 2015

J U D G M E N T

The petitioner, an association, is aggrieved with Ext.P2 order issued by the Secretary, Regional Transport Authority, Vatakara granting fare concession, as per Ext.P1 notification, to five institutions noticed therein; rather to the students studying therein.

2. The learned Counsel for the petitioner submits that, the same cannot be permitted, since, such concession can only be to a recognised educational institution conducting a recognised course, affiliated to any of the Universities in Kerala. The learned Counsel for the petitioner submits that, the issuance of Ext.P2 order is in excess of the specific stipulation in Ext.P1 and since, Section 67 of the Motor Vehicles Act, 1988 authorises only the Government to issue such notifications, the present order issued by the Secretary, RTA is beyond the powers

conferred on him.

3. The learned Counsel, appearing for the respondents 2 to 5 primarily contends that, in fact the specific grievance expressed by the petitioner association, was considered long back and after hearing all parties, an order was passed by the Regional Transport Officer, Vatakara as is indicated in Ext.R5(c) dated 30.10.2013. The association having not challenged the said order cannot now again make allegations against Ext.P2. The said respondents have filed separate counter affidavits, pointing out that they are recognised institutions carrying on courses of specific duration and wherein, the certification to students is issued by recognised Academic Bodies, but, however, not the Universities in Kerala. The number of students also has been clearly specified and there cannot be any dispute that they are persons, who are regularly carrying on such academic courses. The learned Counsel for the petitioner would however, point out that these are courses having duration of less than one year and such

courses cannot be considered to be covered under Ext.P1.

4. Essentially, it is to be noticed that there are two types of students, who are contemplated under Ext.P1 notification.

(i) Full time regular students not engaged in any other calling or profession studying in any recognised educational institution for a recognised course.

(ii) Full time students not engaged in any other calling or profession studying privately in any institution and who have registered their names in any of the Universities in India as a student for a particular course or private study admitted by a University in Kerala.

5. Hence, it is to be noticed that, any regular student studying in a recognised educational institution for a recognised course would be entitled for such fare concession, if he is not carrying on any another calling or profession. Hence, it is not a requirement that, the educational institution should be affiliated under one of the Universities in the Country or in the State. If such a contention is taken, the school children would be disentitled from availing such concession. The further contention that, the respondent institutions are carrying on courses having

duration of below one year, is only to be rejected. Often only students from the marginalised section of society would enroll for such courses that too in the vocational stream and rather than the University students, it would be they, who would have to be granted fare concession for carrying on their education.

6. It is in fact undertaken that none of the students, who have been issued with identity cards for concession, are students, who are taking part-time courses. Nor are they engaged in any other calling or profession. Even part time courses would be covered under Ext.P1 notification, since, any privately registered student affiliated to a course in any University in India would be entitled for concession, provided he is not otherwise employed regularly. Needless to say that a person who has a regular employment or carries on a profession cannot claim fare concession for reason that he is also undergoing an academic course.

With the above reservation alone, the writ petition is found to be devoid of merit and the same would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.