

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 20634 of 2015 (D)

PETITIONER:

**BALAMANI,
W/O.BALAKRISHNAN NAIR, SREERAGAM,
HOUSE NO.270/1, THAVANUR,
PONNANI, MALAPPURAM.**

BY ADV. SRI.SAJU J.VALLYARA

RESPONDENT:

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
MALAPPURAM, PIN-676 506.**

BY GOVERNMENT PLEADER SMT. K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 20634 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 PHOTOCOPY OF THE PROCEEDINGS OF THE R.T.A, MALAPPURAM DATED
12.11.2014 VIDE ITEM NO.2**
- P2 PHOTOCOPY OF THE PROCEEDINGS OF THE RESPONDENT VIDE ORDER
NO.45417/2014 DATED 18.05.2015**
- P3 PHOTOCOPY OF THE REGISTRATION CERTIFICATE IN RESPECT OF THE
STAGE CARRIAGE KL-05-L-6340**
- P4 PHOTOCOPY OF THE REQUEST DATED 01.06.2015 SUBMITTED BY THE
PETITIONER BEFORE THE RESPONDENT.**
- P5 PHOTOCOPY OF THE COMMUNICATION VIDE NO.G2/31166/2014/M DATED
18.06.2015 ISSUED BY THE RESPONDENT TO THE PETITIONER.**

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

/TRUE COPY/

P.A.TO JUDGE

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A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 20634 of 2015

Dated this the 16th day of July, 2015

J U D G M E N T

Under challenge in this writ petition is Ext.P5 issued by the respondent, by which the petitioner's application for permit was rejected on the ground that the substitute vehicle offered by the petitioner is having a lesser seating capacity.

2. The petitioner has applied for the grant of a regular permit to operate on the route, Nariparamba - Edappal - Chembilakkadavu - Kolalamba - Eravakkad - Thavanur. As per Ext.P1 decision of the RTA, the regular permit was granted in respect of vehicle bearing Reg.No.KL-18-7463 subject to settlement of timings. While so, the petitioner was operating service on the above route with the said vehicle on the basis of temporary permit. Due to mechanical defects of the said vehicle, the operation of service has been discontinued

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even before the expiry of the temporary permit; it is alleged. The respondent has convened a timing conference on 04.05.2015 and the timings have been settled. After that, the respondent has issued Ext.P2 proceedings with a direction to produce the current records of the said vehicle within one month. Since the offered vehicle was not fit due to mechanical defects, the petitioner has purchased another vehicle bearing Reg.No.KL-05-L-6340; and accordingly, he has submitted Ext.P4 request to issue regular permit in respect of vehicle bearing Reg.No.KL-05-L-6340. However, the respondent rejected the request as per Ext.P5 on the ground that since the RTA had granted regular permit in respect of vehicle bearing Reg.No.KL-18-7463, it is not acceptable to endorse the permit in respect of another vehicle. According to the respondent, only a later model vehicle can be offered in substitution of the vehicle granted for the permit. The petitioner points out that this Court has held that the replacement cannot be refused

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only on account of the model of the vehicle and that the authority concerned is only to look into the viability of the vehicle proposed to operate on the route. Therefore, according to the petitioner, Ext.P5 is illegal and arbitrary. Hence, this writ petition.

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

4. The learned counsel for the petitioner invited my attention to the decision in **Vinod Thomas v. RTA** [1999 (2) KLJ 1092], wherein this Court held that it is open to the grantee to substitute the vehicle originally offered with a suitable vehicle at any time between the grant and issue of permit. Therefore, this Court is of the view that the petitioner is entitled to get the relief as prayed for.

In the result, the writ petition is allowed. Ext.P5 is quashed. The respondent is directed to reconsider Ext.P4 application and to issue the regular permit sanctioned as per Ext.P1 in respect of stage carriage No.KL-05-L-6340

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to operate on the route, Nariparamba - Edappal -
Chembilakkadavu - Kolalamba - Eravakkad - Thavanur,
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 this writ petition and a
copy of this judgment before the respondent at the
earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-