IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 20856 of 2015 (F)

PETITIONER(S):

NAJEEB. P.P, S/O.ABDULLA O.T.,
PAZHAYAPATTILLATH HOUSE, KUNNUMKAL P.O.,
KANHAGAD, KASARAGOD DISTRICT.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

THE REGIONAL TRANSPORT OFFICER,
KASARAGOD -671121.

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

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

PJ

WP(C).No. 20856 OF 2015 (F)

APPENDIX

PETITIONERS' EXHIBITS

P1: **COPY OF THE PROCEEDINGS DATED 21/1/15**

P2: **COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER**

RESPONDENTS` EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.20856 of 2015

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Dated this the 15th day of July, 2015

JUDGMENT

The petitioner has approached this Court seeking a direction to the respondent to endorse tax at the non-transport rate.

2. The petitioner alleges that motor vehicle tax is a compensatory tax and actual usage of the vehicle is most important to levy tax. The petitioner alleges that his vehicle is not operated and, therefore, he is not liable to pay tax at stage carriage rate. On account of Ext.P1, the existing temporary permit was revoked and no temporary permit was issued to the petitioner. Therefore, no tax at stage carriage rate can be levied against the petitioner's vehicle; it is alleged. According to the petitioner, he is liable to pay tax at non-transport rate only.

3. The petitioner has submitted Ext.P2 application before the respondent seeking to endorse tax at non-transport rate. Now, the

petitioner's vehicle is not operating and the Secretary, RTA had issued Ext.P1 to cancel the temporary permit already issued. There was no further temporary permit or regular permit issued to the petitioner and the application for renewal is also not finally disposed of on account of want of concurrence. The grievance of the petitioner is that since the vehicle belonging to him was not operated, he is not liable to pay tax at stage carriage rate.

4. The petitioner points out that as per clause 7 of the schedule attached to the Motor Vehicles taxation Act, tax has to be assessed as per the prescribed rate for motor vehicles plying for hire and used tor transporting passengers in respect of which permit has been issued under the Act. The petitioner alleges that pursuant to Ext.P1, there was no permit issued to his vehicle and the vehicle was not operated for hire and was not used for transporting passengers. Therefore, no tax at stage carriage rate could be levied against his vehicle; it is alleged.

5. Arguments have been heard.

6. The learned Senior Government Pleader on instructions submitted that the application submitted by the petitioner is pending consideration and a report from the Regional Transport Officer, Kanhangad is awaited.

Therefore, the writ petition is disposed of directing the respondent to consider and pass positive orders on Ext.P1 if the report is favourable to the petitioner, within a period of three weeks from the date of receipt of a copy of this judgment.

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

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