

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 21027 of 2015 (C)

PETITIONER(S):

**K. MUHAMMED, S/O.PAREED,
H.NO.1/236, MEKKAT HOUSE,
P.O MADIKAI, KASARAGOD.**

BY ADV. SRI.O.D.SIVADAS.

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
KASARAGOD -671 121, REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KASARAGOD -671 121.**

BY GOVT. PLEADER SMT.K.A. SANJEETHA.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/08/2015, THE COURT ON 09/11/2015 DELIVERED THE
THE FOLLOWING:**

rs.

WP(C).No. 21027 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. COPY OF THE PROCEEDINGS DATED 06.03.2013.

EXHIBIT P2. COPY OF THE PROCEEDINGS DATED 31.03.2015.

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 21027 of 2015

Dated this the 9th day of November, 2015

J U D G M E N T

The petitioner is seeking a direction from this Court against the 2nd respondent to grant replacement as sought for by the petitioner and issue renewed permit without delay.

2. The petitioner is an existing stage carriage operator on the route between Kanhirapoil and Kanhangad via Thayannur and the permit was issued in respect of stage carriage No.KL 14 B/1015. The petitioner applied for renewal, which was considered and granted by the RTA. The petitioner alleges that since the said vehicle crossed 15 years, it is practically impossible to get the permit issued in respect of the said vehicle; and accordingly, the petitioner submitted an application for replacement of the vehicle with vehicle bearing Reg.No.KL 11 C/2997. The application was considered by

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the Secretary, RTA; and on verification, it was found that there is a mistake in the chassis of the vehicle. Accordingly, the permit was not endorsed to the said vehicle. Thereafter, the petitioner produced another vehicle bearing No.KL 13 K/8440. The petitioner alleges that originally, he produced the records of the vehicle in time and thereby, there is no impediment in issuing renewed permit to the petitioner. According to the petitioner, the authority cannot decline the issue of renewed permit on the ground that the vehicle offered subsequently is not within the stipulated time. It is pointed out that what is relevant is whether the petitioner had produced the records of the vehicle originally in time or not. According to the petitioner, he had produced the records of the vehicle bearing No.KL 11 C/2997 in time and substituted the vehicle subsequently, which would not in any way affect the issue of renewed permit to the petitioner. The petitioner's grievance is that without considering the application for replacement, the

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application for renewal placed in the meeting of the RTA held on 31.01.2015 was rejected. According to the petitioner, the authority has no power to review its own order and reject the application for renewal once granted earlier. Hence, according to the petitioner, the said order is liable to be set aside.

3. In the statement filed by the 2nd respondent, it is stated as follows;

The stage carriage bearing Reg.No.KL 14 B/1015 (DOR:15.10.1997) was permitted to operate on the route, Kanhirapoil - Thayannur - Kanhangad (via) Nileshtar, Erkulam and Bangalam, on the strength of regular permit valid up to 26.06.2012. The applicant had applied for the renewal of permit for a further period of five years from 27.06.2012. The vehicle completed 15 years on 16.10.2012. The matter was placed before the RTA, Kasargod dated 06.03.2013 vide item No.22 and the RTA took Ext.P1 decision. However, the registered owner has failed to produce the current records of the later model vehicle within the stipulated time. More than that, there arose an objection by the previous owner. After clearing

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the objection, the registered owner has applied for replacing another later model vehicle bearing Reg.No.KL 13 K/8440. The tax of the outgoing vehicle bearing Reg.No.KL 14 B/1015 was exempted up to 31.12.2013 and paid tax at the non transport vehicle rate from 01.01.2014 to 31.12.2014 for an amount of ₹1000/- vide TL No.14/27816/2014 dated 12.11.2014. The matter was placed before the RTA, Kasargod dated 31.03.2015 vide item No.25 and the RTA took Ext.P2 decision.

It was contended that since the registered owner in respect of the vehicle bearing Reg.No.KL 14 B/1015 has failed to produce the current records of the later model vehicle within the stipulated time, the renewal application was rejected. On 11.11.2014, the petitioner has obtained non transport vehicle rate tax endorsement and he has paid tax up to 31.12.2014 at non transport vehicle rate. Thereafter, the vehicle bearing Reg.No.KL 14 B/1015 was not covered by any permit. As per Section 15 of the Kerala Motor Vehicle Taxation Act, 1976, the validity of the permit for that vehicle shall become ineffective from the date of expiry of the said period until such time as the tax is actually paid.

4. Arguments have been paid.

5. It appears that Ext.P2 order was passed in view of the fact that the petitioner has failed to produce current records of the later model vehicle within the stipulated time. That is the reason why the renewal application was rejected. The argument advanced by the learned counsel for the petitioner is that the 1st respondent has no power to review Ext.P1 order and cannot reject the application once granted. However, it can be seen that Ext.P2 is not an order passed in a review petition and it is a rejection of renewal application since the petitioner has failed to produce the current records of the later model vehicle. However, considering the entire facts and circumstances of the case, this Court is of the view that the petitioner can be given one more opportunity to produce the current records of the later model vehicle.

Therefore, the writ petition is disposed of as follows;

- Ext.P2 is quashed.

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- The petitioner is permitted to produce the current records of the later model vehicle before the respondents within a period of two weeks from the date of receipt of a copy of this judgment.
- In the event of submitting the records as above, the respondents shall grant replacement as prayed for and shall issue renewed permit within a period of two weeks thereafter.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-