

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

WP(C).No. 21607 of 2015 (A)

PETITIONER:

**ABDUL RASSAK M.A., AGED 36 YEARS,
S/O. ABDUL KAREEM,
METHRUKUDY HOUSE,
SOUTH VAZHAKULAM, ALUVA - 683 105.**

BY ADV. SRI. M. JITHESH MENON

RESPONDENT:

**THE JOINT REGIONAL TRANSPORT OFFICER,
THRIPUNITHURA, [ADDITIONAL LICENSING AUTHORITY],
OFFICE OF THE JOINT REGIONAL TRANSPORT OFFICER,
THRIPUNITHURA - 682 301.**

BY SENIOR GOVERNMENT PLEADER SMT. SANJEETHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE TEMPORARY AUTHORISATION ISSUED BY THE
RESPONDENT DATED 24.04.2015.

EXT.P2: TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO THE
SHOW CASE NOTICE DATED 06.06.2015.

EXT.P3: TRUE COPY OF THE ORDER PASSED BY THE RESPONDENT DATED
06.06.2015.

EXT.P4: TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT DATED
09.06.2015 CANCELLING EXHIBIT. P3 PROCEEDINGS.

EXT.P5: TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 09.06.2015.

EXT.P6: TRUE COPY OF THE RELEVANT EXTRACT OF THE CIRCULAR NO.21/2008
ISSUED BY THE TRANSPORT COMMISSIONER DATED 02.08.2008.

EXT.P7: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
THROUGH HIS FRIEND UNDER THE RIGHT TO INFORMATION ACT DATED
08.06.2015.

EXT.P8: TRUE COPY OF THE REPLY WAS GIVEN BY THE PUBLIC INFORMATION
OFFICER SUB REGIONAL TRANSPORT OFFICE, THRIPIUNITHURA ON
03.07.2015.

EXT.P9: TRUE COPY OF THE LETTER ISSUED BY THE PUBLIC INFORMATION
OFFICER TO THE CITY TRAFFIC POLICE DATED 03.07.2015.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

SHAJI P. CHALY, J.

W.P.(C). No.21607 of 2015

Dated this the 23rd day of July, 2015

JUDGMENT

This writ petition is filed by the petitioner challenging Ext.P5 order passed by the respondent by which the licence of the petitioner is suspended for a period of 3 months from 9.6.2015 to 8.9.2015 consequent to the registration of Crime No.3303/2015 of City Traffic Police Station, Tripunithura after providing hearing to the petitioner. I find from Ext.P5 impugned order that respondent has relied on Circular No.21/2008 of the Transport Commissioner, Kerala by which stipulations are made by the Transport Commissioner interdicting the powers of the respondent statutory authority provided under Section 19(1) of the Motor Vehicles Act, 1988.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for the respondent.

3. On perusal of Ext.P5 order, it is evident that the respondent has not considered the matter independently of Ext.P6 circular. I feel that while taking a decision with regard to

the suspension of licence, no time limit is provided under Section 19(1) of the Motor Vehicles Act. Obviously the three months period of suspension effected by the respondent authority is looking into the stipulations contained in Ext.P6 circular. Therefore, I feel that Ext.P5 order passed by the respondent is not in accordance with law and therefore, I set aside the same and direct the respondent to take a decision independently of stipulations contained in Ext.P6 circular, after providing sufficient opportunity of hearing to the petitioner, within a period of 15 days from the date of receipt of a copy of this judgment.

Writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

smv