

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C).No. 21992 of 2015 (Y)

PETITIONER :

**YESHODA M.V.,
W/O.BALAKRISHNAN,
MATHRADAN PALORA HOUSE, MANIYARA
P.O. KANAYI, TALIPARAMBA TALUK,
KANNUR DISTRICT.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY
KANNUR – 670 001.**

BY GOVT. PLEADER SMT. K.A. SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 21992 of 2015 (Y)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1- TRUE COPY OF THE REQUEST DATD 8.5.15.**
- EXT. P2- TRUE COPY OF THE JUDGMENT DATED 19.6.15 IN WPC NO.17853/15.**
- EXT. P3- TRUE COPY OF THE PROCEEDINGS DATED 3.7.15.**
- EXT. P4- TRUE COPY OF THE JUDGMENT IN WP(C) NO.13005 OF 2015 PASSED
BY THIS HONOURABLE COURT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 21992 of 2015

Dated this the 22nd day of July, 2015.

JUDGMENT

The petitioner is aggrieved by Ext.P3 by which the petitioner's application for clearance certificate was rejected by the respondent.

2. The petitioner is operating a stage carriage between Palayathuvalappuz and Kadamkunnu and the permit belonging to the petitioner is endorsed to stage carriage No.KL-13/N 2131. The petitioner alleges that her vehicle is not fit to operate on the route. Therefore, the petitioner intends to replace the vehicle by a later model vehicle. The petitioner further alleges that due to financial difficulties, she is not in a position to purchase a new vehicle by retaining the existing vehicle and submitted Ext.P1 request. Since there was no action, the petitioner filed W.P.(c) No.17853 of 2015 and as per Ext.P2 judgment, the respondent was directed to consider the application and pursuant to the above, Ext.P3 order was

issued rejecting her request. The reason stated in Ext.P3 is untenable; it is alleged. The respondent has not properly understood the provisions of law applicable to the case. It is pointed out that the surrender of the permit of the vehicle is not a condition for permit and the vehicle can be replaced/substituted by a suitable vehicle. There is no provision in the Act or Rules that for issue of clearance certificate, the permit need be surrendered. It is pointed out that Rule 152 of the Kerala Motor Vehicles Rules stipulates that if the permit holder is not in a position to use the vehicle and permit holder is prevented from conducting service, he can suspend the permit by submitting necessary application to the authority. In short, there is provision to suspend the permit on necessary application. However, this aspect was not considered by the respondent while passing the impugned order. Hence, Ext. P3 is illegal, arbitrary and the same is liable to be set aside; it is alleged. It is with this background, the petitioner has come up before this court.

3. I have heard the learned counsel for the petitioner

and the learned Government Pleader in the matter.

Considering the nature of the prayer and the nature of the submissions, Ext.P3 is quashed. The respondent is directed to consider Ext.P1 request and to pass positive orders without insisting for surrender of permit of the petitioner's vehicle, within a period of two weeks from the date of receipt of a copy of this judgment. The petitioner shall produce the current records of the vehicle sought to be substituted within a period of four months from the date of issue of clearance certificate.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.