

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 22210 of 2015 (A)

PETITIONER(S) :

**K.PRASANNAKUMAR,
KANDENKAVIL HOUSE, MARATHAKKARA P.O,
THRISSUR, REPRESENTED BY POWER OF ATTORNEY A.A.JOHAR,
S/O.ANTO, AINIKAL HOUSE, MARATHAKKARA P.O.,
OLLUR, THRISSUR.**

BY ADV. SRI.I.DINESH MENON

RESPONDENT(S) :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM- 682 030.**

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT FOR ENDORSEMENT OF TAX AT THE RATE APPLICABLE TO NON-TRANSPORT VEHICLE AFTER THE EXPIRY OF THE BASIC PERMIT.

EXHIBIT P2: TRUE COPY OF THE JUDGMENT IN W.P(C).NO.6922 OF 2015 DATED 05.03.2015.

EXHIBIT P3: TRUE COPY OF THE PROCEEDINGS DATED 24.03.2015.

EXHIBIT P4: TRUE COPY OF THE JUDGMENT IN W.P(C).NO.11371 OF 2015 DATED 09.04.2015.

EXHIBIT P5: TRUE COPY OF THE ORDER OF REJECTION DATED 02.05.2015.

EXHIBIT P6: TRUE COPY OF THE INTERIM ORDER IN W.P(C).NO.19132 OF 2015 DATED 25.06.2015.

EXHIBIT P7: TRUE COPY OF THE DECISION OF THE R.T.A ERNAKULAM BEARING ORDER NO.C1/12488/2011/E DATED 26.05.2015.

EXHIBIT P8: TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT ON 29.06.2015.

EXHIBIT P9: TRUE COPY OF THE JUDGMENT IN W.P(C).NO.19444 OF 2015 DATED 07.07.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 22210 of 2015

Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner has come up before this Court seeking a direction to the respondent to issue regular permit and fitness certificate on the ground that tax for the disputed period has to be paid in spite of the stay granted by this Court.

2. The petitioner has been granted with a renewed permit by the RTA, Ernakulam on 26.05.2015. There is a dispute relating to tax of the vehicle bearing Reg.No.KL-08/AV-101; and the same is pending in appeal before the Deputy Transport Commissioner by virtue of a statutory appeal preferred under Section 23 of the Taxation Act. As there is an order of stay granted by this Court, the Secretary, RTA, Ernakulam, has taken the stand that unless and until the disputed tax is paid, the renewed permit would not be issued, which, according to the

..2..

petitioner, is illegal and is only to defeat the legal right of the petitioner to challenge the disputed tax. According to him, he is willing to pay tax at the rate applicable to the current quarter. He alleges that the respondent has not only refused to issue the granted permit but also refused to inspect the vehicle to ascertain as to whether the vehicle is fit to be used as a stage carriage or not. Hence, this writ petition.

3. Arguments have been heard.

4. Though it was strenuously argued by the learned senior Government Pleader that the tax in respect of the petitioner's vehicle is due; and therefore, the petitioner is not entitled for the temporary permit, the learned counsel for the petitioner would submit that the very liability of the petitioner is under challenge in an appeal now pending before the Deputy Transport Commissioner.

5. Therefore, this Court is of the view that there could be a direction to the respondent to issue renewed

..3..

regular permit and fitness certificate as prayed for subject to the final outcome of the appeal.

Therefore the writ petition is disposed of directing the respondent to issue renewed regular permit and fitness certificate to the petitioner, which shall be subject to the final outcome of the appeal now pending before the Deputy Transport Commissioner.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-

Vehicle No.“KL-08-AV-101” occurring in the second sentence of paragraph 2 of the judgment dated 30.07.2015 in W.P.(C) No.22210/2015 is corrected and substituted as “KL-08-AB-101” as per order dated 07/08/2015 in I.A 11335/2015.

Sd/-
Registrar (Judicial)