

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C).No. 22786 of 2015 (W)

PETITIONER(S):

**SHAJAHAN,
ALTHAF HOUSE, ELAMBA P.O., VALAKKAD,
ATTINGAL, THIRUVANANTHAPURAM.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
THIRUVANANTHAPURAM (RURAL), ATTINGAL-695101,
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY
THIRUVANANTHAPURAM (RURAL), ATTINGAL-695101.**

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
DATED 15.4.2013.**

EXHIBIT-P2: TRUE COPY OF THE REPRESENTATION DATED 11.4.2013.

EXHIBIT-P3: TRUE COPY OF THE JUDGMENT DATED 28.5.2013.

EXHIBIT-P4: TRUE COPY OF THE REPRESENTATION DATED 13.5.2014.

EXHIBIT-P5: TRUE COPY OF THE PROCEEDINGS DATED 18.4.2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 22786 of 2015

Dated this the 10th day of August, 2015.

JUDGMENT

The petitioner is aggrieved by the alleged inaction on the part of the second respondent in settling the timings of the petitioner's stage carriage.

2. The petitioner is an existing operator on the route between Attingal and Attingal (Circular) and the permit is issued in respect of stage carriage No.KL 7 Y/5369. Presently, the petitioner is operating the service on the basis of the timings settled on 20.3.2013. The petitioner alleges that since there is changed circumstances, he submitted Ext.P1 application for revision of own timing. The petitioner also produced Ext.P2 representation submitted by the Kizhuvilam Grama Panchayath stating that the existing timings allotted to stage carriage No.KL 7 Y/5369 is not beneficial to the traveling public. It was also suggested that if more time gap is provided to the petitioner's service, the travelling public would be

benefited. Aggrieved by the inaction of the second respondent in convening the timing conference and settling the timing, the petitioner approached this Court with W.P.(C) No.13241/2013 which was disposed of by Ext.P3 judgment directing the second respondent to consider the application for revision of time and pass necessary orders after hearing other operators. Since the second respondent had not complied with the directions in Ext.P3 judgment, the petitioner had submitted Ext.P4. The petitioner had sought only revision of existing timing and not sought variation of permit. However, the second respondent instead of convening the timing conference, placed the matter in the meeting of the RTA on the ground that the variation of the existing timing can be granted only by the RTA. In fact, as per rules, the second respondent has got ample power to consider the application for variation of timing and secretary alone has the jurisdiction to do so. In short, placing the application for revision of timing, the first respondent is an unnecessary exercise. The first respondent considered the

application as if it was an application for variation of permit and rejected the same as per Ext.P5 stating that the change of timing would result clash with other operators. Time clash can be avoided by the second respondent if a timing conference is convened to settle the timing; 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 Senior Government Pleader in the matter.

4. The learned Senior Government Pleader on instructions would submit that as per Ext.P3 judgment dated 28.5.2013, the timing conference was convened twice and the second conference was on 26.7.2014. However, the timings could not be settled on account of the objection raised from the existing operators as well as the KSRTC. They pointed out the reason that there is no sufficient time gap available to accommodate the request of the petitioner.

As the direction in Ext.P3 is yet to be complied with, the

second respondent is directed to convene a timing conference with due notice to the petitioner, KSRTC and other existing operators within a period of one month from the date of receipt of a copy of this judgment and to consider the petitioner's application in the said meeting without fail.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.