

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

WP(C).No. 23199 of 2015 (Y)

PETITIONER :

**ABDUL JABBAR,
S/O.JALALUDEEN KUNU, SHAMEER MANZIL,
SOORANAD SOUTH, PATHARAM P.O,
KUNNATHOOR, KOLLAM.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
KOLLAM-691 001.**

BY GOVT. PLEADER SMT. K.A. SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 23199 of 2015 (Y)

APPENDIX

PETITIONERS' EXHIBITS :

EXT:P1 TRUE COPY OF THE PERMIT OF THE PETITIONER.

**EXT.P2 TRUE COPY OF THE APPLICATION DATED 27.3.2015 ALONG WITH
CHALLAN.**

**EXT.P3 TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.10502 OF 2014 DATED
08.04.2015 PASSED BY THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 23199 of 2015

Dated this the 7th day of August, 2015.

JUDGMENT

The petitioner is seeking a direction to the respondent to consider Ext.P2 to grant replacement.

2. The petitioner is an existing operator on the route between Puthensanketham and Bharanikavu. The permit is issued in respect of stage carriage bearing registration No.KL-11 Z/1212 and the permit was valid till 14.6.2018. The petitioner alleges that he applied for issue of clearance certificate by retaining the permit under suspended animation and the same has been granted pursuant to a direction issued by this Court. The petitioner has to submit the records of the incoming vehicle within a period of four months. The petitioner had submitted application for replacement on 27.3.2015, in time. Though the application was submitted, the respondent has not granted replacement as sought for on the ground that the incoming vehicle is older than the outgoing

vehicle. The petitioner points out that the permit was issued in respect of the stage carriage No.KL 11 Z/1212 which is a 2006 model vehicle whereas the vehicle produced by the petitioner along with Ext.P2 is a 2003 model vehicle. The petitioner further points out that make and model of the vehicle is not a sufficient reason to deny replacement. What is to be looked into is the viability of the vehicle as the relevant factor for considering the application for replacement. If the incoming vehicle, though older, is fit in all respects than the original vehicle, then the authority has to exercise its discretion in the matter and grant replacement. However, the respondent is reluctant to consider the application, on the ground that the incoming vehicle is not a later model vehicle; 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.

4. The learned Senior Government Pleader on

instructions submitted that the petitioner has not submitted the current records as directed in W.P.(C) No.31494 of 2014. However, the learned counsel for the petitioner would submit that he has placed the current records as directed above. However, the request is only for a replacement, the secretary, RTA can consider the same.

Therefore, the writ petition is disposed of directing the respondent to consider Ext.P2 and pass appropriate orders thereon taking note of Ext.P3 judgment, within three weeks from the date of receipt of a copy of this judgment, in the event of producing the relevant documents by the petitioner if not already produced.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.