

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

WP(C).No. 23534 of 2015 (N)

NAME AND ADDRESS OF THE PETITIONER(S):

- 1. JOSEPH SEBASTIAN,
S/O.SEBASTIAN, PADIYARA HOUSE, INDUSTRIAL NAGAR P.O.,
VAZHAPPALLY, CHENGANACHERY.**
- 2. JOMY JOSEPH,
KAVALAMPUTHUPARAMB, KAVALA, CHENGANACHERRY P.O.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S) :

- 1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
IDUKKI- 685 584.**
- 2. SARAN V.SASEENDRAN,
VARADIYIL HOUSE, KANGAZHA P.O, KOTTAYAM- 686 001.**

**R1 BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN
R2 BY ADV. SRI.P.DEEPAK**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

WP(C).No. 23534 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE TIME SHEET ISSUED TO
THE 1ST PETITIONER.**

**EXHIBIT P2: TRUE COPY OF THE TIME SHEET ISSUED TO
THE 2ND PETITIONER.**

EXHIBIT P3: TRUE COPY OF THE PROCEEDING DATED 22.10.2012.

EXHIBIT P4: COPY OF THE PROCEEDING DATED 23.06.2015.

RESPONDENT(S)' EXHIBITS :

**EXHIBIT R2(A): A TRUE COPY OF THE JUDGMENT IN
W.P(C).NO.9504 OF 2015 DATED 30.03.2015.**

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 23534 of 2015

Dated this the 5th day of August, 2015.

JUDGMENT

Aggrieved by the illegal issue of temporary permit to the second respondent, the petitioners have come up before this Court.

2. The first petitioner is a stage carriage operator on the route between Pakkanam and Chenganacherry and the second petitioner is a stage carriage operator on the route between 504 Colony and Chenganacherry. The petitioners allege that the second respondent is operating on the route between Chemmannar and Chenganacherry and the said permit was originally issued as a Fast Passenger permit which was valid till 8.1.2014. Since the class of service is a fast passenger service, he applied for variation to curtail the route from Chemmannar to Nedumkandam and other deviation on the original route. The said application is pending with the RTA. In the meantime, he also moved an application for

temporary permit on the varied route, which was granted by the second respondent. Admittedly, the second respondent's service is a fast passenger service and as per the existing scheme introduced by the government, all higher class of service are to be renewed as LSOS without curtailing the route. So there is no necessity to curtail the route sought by the second respondent; it is alleged. The petitioners further allege that variation need be considered only for converting the service as LSOS, ie, as per the present notification, no curtailment is required and the second respondent can continue operation on the sector without effecting any change of timings. The first respondent committed grave illegality and issued temporary permit on a varied route even without grant of variation by the RTA; it is alleged. Apart from the above, for curtailing the route from Chemmannur to Nedumkandam, the departure time from Nedumkandam and Chenganacherry need not be changed. However, for the convenience of the second respondent, the first respondent granted revision of timing, which is not legal and justifiable. Hence, Ext.P4 is illegal and arbitrary and the same is liable to be set aside; it is

alleged.

3. I have heard the learned counsel for the petitioner, learned counsel for the second respondent and the learned Government Pleader in the matter.

4. When the writ petition came up for hearing on 4.8.2015, this Court stayed the operation of Ext.P4 for a period of two weeks. However, the party respondent entered appearance and filed counter affidavit along with copy of Ext.R2(a) judgment of this Court and submitted that the temporary permit on the curtailed route was sanctioned in the light of Ext.R2(a) judgment.

In the light of the above submission, the stay granted is vacated and the matter is referred to the Secretary, RTA, Idukki to consider the petitioner's objection regarding the timings to be settled, after affording the petitioner and the party respondent an opportunity of being heard within a period of two weeks untrammelled by observations in Ext.P4 proceedings.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.