

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 23555 of 2015 (T)

PETITIONER :

**K.S. RAMADAS
S/O.SADANANDAN, KANAKKATTUSSERY HOUSE,
PALLIPURAM P.O., CHERAI, NORTH PARAVOOR.**

BY ADV. SRI.PRASAD CHANDRAN

RESPONDENT :

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

BY GOVT. PLEADER SMT. K.A. SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 23555 of 2015 (T)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: TRUE COPY OF THE REGULAR PERMIT ISSUED TO THE PETITIONER
ON THE ROUTE NORTH PARUR-VYPIN VALID UP TO 4/4/2018.**
- EXT. P2: TRUE COPY OF THE REGISTRATION CERTIFICATE OF STAGE
CARRIAGE KL-07/BA 7767.**
- EXT. P3: TRUE COPY OF THE APPLICATION FOR REPLACEMENT DATED
26/6/2015.**
- EXT. P4: TRUE COPY OF THE JUDGMENT IN WP(C) NO.19853/2015 DATED
7/7/2015.**
- EXT. P5: TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED
16/7/2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 23555 of 2015

Dated this the 17th day of August, 2015

J U D G M E N T

Aggrieved by Ext.P5, by which the petitioner's application for replacement was rejected by the respondent, the petitioner has come up before this Court.

2. The petitioner is holding a regular permit on the route between Vypin and North Paravur, which is valid up to 04.04.2018. The existing vehicle is a 2006 model vehicle with 33 seats. The petitioner procured a 2005 model vehicle with 38 seats, which is registered in 2006, and applied for replacement as per Ext.P3. According to the petitioner, the seating capacity of the outgoing and incoming vehicles does not differ by more than 25%; and hence, there is no material difference between the two vehicles. Because of the failure on the part of the respondent in considering the application, the petitioner had approached this Court; and this Court, vide Ext.P4 judgment, directed the respondent to consider the application in accordance with law. The petitioner's grievance is that now, as per Ext.P5, relying on a judgment of

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the apex court with respect to the age limit, the respondent rejected the application. Hence, this writ petition.

3. Heard the learned counsel for the petitioner and the learned Government Pleader.

4. The refusal on the part of the respondent in considering the application for replacement was for the reason that the incoming vehicle is older than the outgoing vehicle. The issue is no longer res integra and the only material question to be considered is regarding the road worthiness of the vehicle.

Therefore, the writ petition is disposed of directing the respondent to reconsider Ext.P3 application and allow replacement in the light of what has been stated above. The petitioner shall produce the relevant records of the incoming vehicle within a period of four months of replacement, if the same were not already produced.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-