

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 26421 of 2013 (C)

PETITIONER(S):

- * 1. M.A.TITTO,
VAYALAN HOUSE, VARANDARAPPILLY P.O., PALLIKKUNNU,
THRISSUR. (DELETED)
- 2. K.K.DILEEPKUMAR,
KADAPPULLY HOUSE, CHAZHOOR P.O., THRISSUR DISTRICT.
- * 1ST PETITIONER IS DELETED FROM THE PARTY ARRAY AS PER ORDER
DTD.14.1.2015 IN IA.NO.536/2015 IN WP(C) NO.26421/2013.

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENT(S):

- 1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, THRISSUR, PIN 680 001.
- 2. THE TRANSPORT COMMISSIONER,
THIRUVANANTHAPURAM, PIN 695 039.
- 3. SMT.VANAJA,
W/O.JAYAN, MOOTHERI HOUSE, THOTTIPAL,
THRISSUR DISTRICT, PIN 680 001.

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR
R3 BY ADV. SRI.I.DINESH MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD N
14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: COPY OF THE NOTICE OF THE 1ST RESPONDENT REGARDING THE
TIMING CONFERENCE FIXED TO 6/11/2012.**

**EXHIBIT P2: COPY OF THE ORDER ISSUING TIMINGS TO THE 3RD RESPONDENT'S
SERVICE DATED 21/4/2013.**

**EXHIBIT P3: COPY OF THE NOTICE OF THE 1ST RESPONDENT REGARDING THE
TIMING CONFERENCE FIXED TO 2/7/2013.**

**EXHIBIT P4: COPY OF THE NOTICE OF THE 1ST RESPONDENT REGARDING THE
TIMING CONFERENCE FIXED TO 6/11/2013.**

**EXHIBIT P5: COPY OF THE OBJECTION FILED BY THE 1ST PETITIONER BEFORE THE
1ST RESPONDENT DATED 11/10/2013.**

RESPONDENT(S)' EXHIBITS:

EXT.R3(a): TRUE COPY OF THE PERMIT ISSUED TO 2ND PETITIONER.

EXT.R3(b): TRUE COPY OF THE PROCEEDINGS DATED 6.11.2012.

EXT.R3(c): TRUE COPY OF THE REVISION PETITION IN MVARP 504/2013.

EXT.R3(d): TRUE COPY OF THE ORDER IN MVARP NO.504/13 DATED 15/12/2013.

EXT.R3(e): TRUE COPY OF THE JUDGMENT IN WP(C) NO.3656/2013 DATED 7.2.2013.

EXT.R3(f): TRUE COPY OF THE PROCEEDINGS DATED 2.4.2013.

EXT.R3(g): TRUE COPY OF THE JUDGMENT IN WP(C) NO.7013/2013 DATED 13.3.2013.

EXT.R3(h): TRUE COPY OF THE LETTER DATED 8.7.2013.

EXT.R3(i): TRUE COPY OF THE ROUGH SKETCH OF THE ROUTE.

//TRUE COPY//

P.S.TO JUDGE

K.VINOD CHANDRAN, J

W.P.(C).No. 26421 of 2013

Dated 14th January, 2015

JUDGMENT

Two petitioners filed the above writ petition, challenging the timing conference scheduled with respect to the 3rd respondent, by Ext.P4, evident at item No.9 of Ext.P4 and which obviously has been convened as per the directions of the Transport Commissioner. The 1st petitioner has since been deleted and the 2nd petitioner alone prosecutes the matter and he claims to be an existing operator, carrying on service on the route which overlaps that of the 3rd respondent also. The 3rd respondent has serious objection with respect to such assertion; however that need not be looked into by this Court since an obvious illegality has been brought to the notice of this Court, in the above writ petition.

2. The 3rd respondent was operating on a route in which the 3rd respondent had been settled timings on a granted permit. The 3rd respondent was aggrieved with the same and was before the State Transport Appellate Tribunal which remanded the matter by Ext.R3(a). After the remand, the 3rd respondent was again constrained to approach this Court for expeditious consideration of the settlement of timings, which writ petition was disposed of by Ext.R3(e). The petitioner, on no timings being settled, was before the Transport Commissioner as also before this Court with yet another writ petition in which again, a direction was issued at Ext.R3(g).

3. In any event, the proceedings of the Secretary, RTA on 02.04.2014 indicates that the same has been settled by Ext.R3(f). It is

subsequent to that, the aforesaid settlement has been proposed by Ext.P4, purportedly on instructions from the Transport Commissioner.

4. The learned counsel for the petitioner would contend that the Transport Commissioner being the Administrative Head of the Department cannot intervene in the statutory powers conferred on the various authorities, being the Regional Transport Authority as also the Secretary. Directions for settlement of timings or as in this case, revision of settled timing, can be issued only by the Tribunal or this Court. A settled timing would have to be necessarily challenged as provided under the Statute.

5. The learned counsel for the 3rd respondent, however, would contend that, it is only in the peculiar circumstances, which

resulted in the long delay in settlement of timings, that such a convening of conference was occasioned. It is also urged that, what has been stated in Ext.R3(f) is not the true facts since on 25.02.2013, there was no consideration and the matter itself was adjourned. Again, the order of the Tribunal produced at Ext.R3(d) is pointed out to contend that specific defects mentioned, have not been considered by the authority when settling the timings.

6. Be that as it may, the "right-royal" method, if I may use the expression to mean the statutory remedy of challenging the settlement of timings as per Ext.P2, is by way of revision before the State Transport Appellate Tribunal. It is also brought on record by the petitioner that in fact, the order of the Transport Commissioner only directs consideration of settlement of timings, if not already settled.

In such circumstances, definitely, there could have been no separate timing conference scheduled by Ext.P4 with respect to the vehicle of the 3rd respondent. Timing conference scheduled at Ext.P4 as item No.9, would not be proceeded with; however, the 3rd respondent would be left the remedies available to challenge Ext.P2 order in which event, the circumstances noticed herein would be sufficient cause for condoning the delay, if any, occasioned provided the statutory remedy is availed.

The writ petition is disposed of. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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