

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 27381 of 2013 (W)

PETITIONERS :

1. PURUSHU M.P.
S/O.KANARAN, PADINJARENEROTH MEETHAL HOUSE,
NEAR MANIYOOR HIGH SCHOOL, PALAYADUNADA(PO)
IRINGAL (VIA)PIN 673 521
2. RAMAKRISHNAN
CHATHOTHU HOUSE, PATHIYARAKKARA (PO), VATAKARA
3. KUNJURAMAN NAIR,
S/O.KOMAPPAN NAIR, KOTTACHILLY HOUSE, ILLAMBILADU
MANIYOOR (PO), VATAKARA
4. SUNILKUMAR T.P, S/O.KRISHNAN T.P,
THAIVACHAPARAMBATH, MAYYANNOOR(PO)
VATAKARA
5. SUDHEESH
S/O.DIVAKARAN, METHODY HOUSE, IRINGAL (PO)

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENTS :

1. THE REGIONAL TRANSPORT OFFICER,
OFFICE OF THE REGIONAL TRANSPORT AUTHORITY, VATAKARA
KOZHIKODE DISTRICT, PIN 673 101
2. REGIONAL TRANSPORT AUTHORITY
REP.BY ITS SECRETARY
OFFICE OF THE REGIONAL TRANSPORT AUTHORITY,
VATAKARA, KOZHIKODE DISTRICT PIN 673 101
3. THE VATAKARA MUNICIPALITY
REP.BY ITS SECRETARY, MUNICIPALITY OFFICE,
VATAKARA - PIN 673 101
4. THE CIRCLE INSPE3CTOR OF POLICE
VATAKARA POLICE STATION, VATAKARA PIN 673 101

WP(C).No. 27381 of 2013 (W)

***ADDL. R5 TO R11 IMPEADED :**

- 5. RAMESAN.V.P.
SECRETARY, C.I.T.U. AUTO SECTION, VATAKARA.**
- 6. SUNILKUMAR.O.M.
SECRETARY, A.I.T.U.C. AUTO SECTION, VATAKARA.**
- 7. SHAJI, S/O.BALAN,
SECRETARY, I.N.T.U.C. AUTO SECTION, VATAKARA.**
- 8. GANESAN.P.
SECRETARY, B.M.S. AUTO SECTION, VATAKARA.**
- 9. RAJEEVAN.E.
SECRETARY, H.M.S. AUTO SECTION, VATAKARA.**
- 10. SANAL KUMAR
SECRETARY, N.L.C., AUTO SECTION, VATAKARA.**
- 11. ABDUL ASHRAF
SECRETARY, S.T.U., AUTO SECTION, VATAKARA.**

**ADDL. R5 TO R11 ARE IMPEADED AS PER ORDER DATED 27/01/2014
IN IA 190/2014.**

**R1, R2 & R4 BY GOVERNMENT PLEADER SRI. BIJU MEENATTOOR
R3 BY ADV. SRI.NAVEEN.T
ADDL.R5 TO R11 BY ADV. SRI.MOHANAN V.T.K.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: THE TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE BOOKS.
- EXHIBIT P2: THE TRUE COPY OF THE PROCEEDINGS OF THE RTA MEETING HELD ON 06/10/2009.
- EXHIBIT P3: THE TRUE COPY OF THE PROCEEDINGS OF THE RTA MEETING HELD ON 30/07/2010.
- EXHIBIT P4: THE TRUE COPY OF THE REFERENCE NO .C2/1054/2009/DB DATED 15/06/2010
- EXHIBIT P5: THE TRUE COPY OF THE PROCEEDINGS HELD ON RTA MEETING OF 26/03/2013
- EXHIBIT P6: THE TRUE COPY OF THE INTIMATIONS DATED 20/8/2013 AND 29/0-6/2011.
- EXHIBIT P7: THE REPRESENTATION DATED 15/10/2013.
- EXHIBIT P8: COPY OF THE APPLICATION DT 16/4/2014 BY THE 1ST PETITIONER.
- EXHIBIT P9: THE REPLY ISSUED BY THE OFFICE OF THE R1 DT 5/5/2014.
- EXHIBIT P10: COPY OF THE NEWS ITEM REPORTED IN MATHUBHOOMI DAILY DT 14/3/2014.

RESPONDENT(S)' EXHIBITS :

- EXT.R5(a): COPY OF THE PROPOSED AUTHORICKSHAW STANDS WITHIN VATAKARA MUNICIPALITY.
- EXT.R5(b): COPY OF THE REPRESENTATION SUBMITTED BEFORE THE REGIONAL TRANSPORT AUTHORITY, KOZHIKODE BY THE AUTHORICKSHAW UNIONS DT 28/11/2013.

//TRUE COPY//

P.A. TO JUDGE

bp

K.VINOD CHANDRAN, J

W.P.(C).No. 27381 of 2013

Dated 12th March, 2015

JUDGMENT

Petitioners are all residents outside the municipal area of Vatakara. The petitioners contend that, they are plying auto rickshaws but however, have been interdicted from entering inside the Vatakara Municipality. Petitioners specifically challenge Ext.P6.

2. Ext.P6 is a reply given by the Regional Transport Officer to the 1st petitioner herein on a request made to provide a parking space within the Vatakara Municipality. The Regional Transport Officer, on the basis of a decision of the Transport Commissioner, rejected the request of the 1st petitioner on the ground that none who have residence outside the Vatakara Municipality can be allowed a parking space within the Municipal area. The

petitioners allege that such discrimination on the basis of residence would run contrary to the constitutional provisions. The petitioners also have a similar contention with respect to clause (i) in Ext.P9 wherein the residents outside the Vatakara Municipality have been interdicted from applying for parking space within the Vatakara Municipality.

3. The learned counsel appearing for the additional respondents would submit that there are already too many auto rickshaws parking within the Municipality and hence, there cannot be further permits allowed to park within the Vatakara Municipality. The essential contention seems to be that, such permission to park would make intrusion into the livelihood of the auto drivers who are already parking inside the Vatakara Municipality. That contention cannot be countenanced, since every citizen has a right to live and to carry on business and as long as it does not restrict the right of another, there

can be no interdiction of permits unless there is a statutory prohibition.

3. The issue agitated herein is covered by the decision of this Court in W.P.(C).24688 of 2013 dated 22.11.2013. Therein a similar question arose where the Transport Authorities in the Ernakulam district restricted the residents outside the Ernakulam city to apply for permits within the Ernakulam city. This Court found so, on the specific issue raised, in paragraph 10 -

“While this Court does not express any opinion as to whether in fact or on law the petitioners are entitled to grant of permit or not, necessarily their applications cannot be rejected at the threshold on the ground of their having no residence within the Corporation limits.”

4. The very same principle would apply herein also. The reasons stated in Ext.P6 hence are not sustainable and the Transport

Authorities cannot rely on such decision taken by the Transport Commissioner to restrict the permits within the Municipal area. The condition insofar as Ext.P9 restricting application for parking space within the Vatakara Municipality, to residents inside the Municipal area, will have no consequence. The restriction hence would stand set aside.

5. Further, the learned counsel for the petitioner specifically points to the report of the Motor Vehicle Inspector at Ext.P4 wherein as on 15.06.2010, there were 11 auto rickshaw parking stands within the municipal area with around 1053 permits. As of now, going by Ext.P9 dated 05.05.2014 there are 58 auto rickshaw stands with only 1505 permits. There is a contention by the additional respondents that the entire parking stands as indicated in Ext.P9 have not been implemented. However, that is a question which will have to be considered by the RTA in consultation with the Local Self

Government Institution. The specific direction in the judgment afore mentioned as extracted herein above, would apply in the case of the petitioners herein also. Hence, it is not as if this Court has directed grant of the permits; however, restriction imposed as far as the non residents being not entitled to apply will have to go. Consideration of the application will be in accordance with law.

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

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//