

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 26142 of 2015 (P)

PETITIONER(S) :

- 1.RAVINDRANATH, AGED 38 YEARS,
S/O. PARAMESWARAN,
13/320, MANKUZHI HOUSE, KOORKANCHERRY GP,
CHIYYARAM P.O., THRISSUR-680026.
- 2.JAYAPRAKASH V.B., S/O.BALAN,
VALIYAPARAMBIL HOUSE,
P.O.KANIMANGALAM, THRISSUR-680027.
- 3.LATHA, D/O.AMMINI AMMA, 287/15/EDATHIL HOUSE,
KOORKANCHERRY, THRISSUR-680026.
- 4.VIMOD K.D., S/O.DHARMARAJAN K.V.
KUMBALAPARAMBIL HOUSE, CHIYYARAM P O,
THRISSUR-680026.
- 5.RAPPAI P.I., S/O.KUNJUVAREETH,
PUTHUR HOUSE,
P.O.CHIYYARAM, THRISSUR-680026.
- 6.ANIL KUMAR, S/O.ANANTHAN,
15/392, KUTTIPARAMBIL HOUSE,
P.O.CHIYYARAM, THRISSUR-680026.
- 7.SHAJI, S/O.OUSEPH,
THARAYIL KALLUTTUZHIL HOUSE,
CHIYYARAM P O, THRISSUR-680026.
- 8.AJEENA, W/O.MANOJ,
15/672 KAINOOR HOUSE,
P O CHIYYARAM, THRISSUR-680026.
- 9.FRANCIS, S/O.VARGHESE,
10/790 CHAMMANAM HOUSE,
CHIYYARAM P O, THRISSUR-680026.
- 10.SIJO J THATTIL, S/O.JOSE,
15/317A (42/1212), THATTIL HOUSE,
CHIYYARAM P O, THRISSUR-680026.
- 11.VINESH K.V., S/O.VALSALAN,
13/433 (30/932),
KOZHIPARAMBIL HOUSE, CHIYYARAM P O,
THRISSUR-680026.

Contd...2

WP(C).No. 26142 of 2015 (P)

12.MANOJ KUMAR, S/O.VIJAYAN,
KUMBALAPARAMBIL HOUSE, CHIYYARA P O,
THRISSUR-680026.

13.SUNIL KUMAR, S/O.SANKU,
NELLATT HOUSE, CHIYYARAM P O,
THRISSUR-680026.

14.AJYAN, S/O.NARAYANAN,
KOZHIPARAMBIL HOUSE,
CHIYYARAM P O, THRISSUR-680026.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS

1.THE REGIONAL TRANSPORT AUTHORITY,

2.THE SECRETARY, REGIONAL TRANSPORT AUTHORITY, THRISSUR-680001.

3.THRISSUR CORPORATION, REPRESENTED BY THE SECRETARY,
THRISSUR-680001.

R3 BY ADV. SRI.K.P.VIJAYAN

R3 BY ADV. SRI.V.N.HARIDAS

BY ADV.SMT.SANGEETHA K.A.,GOVERNMENT PLEADER

R BY SRI.K.P.VIJAYAN,SC,THRISSUR CORPORATION

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1 : TRUE COPY OF THE PERMIT ISSUED TO the 1st PETITIONER.

EXT.P2 : TRUE COPY OF THE PERMIT ISSUED TO the 2nd PETITIONER.

EXT.P3 : TRUE COPY OF THE PERMIT ISSUED TO the 3rd PETITIONER.

EXT.P4 : TRUE COPY OF THE PERMIT ISSUED TO the 4th PETITIONER.

EXT.P5 : TRUE COPY OF THE PERMIT ISSUED TO the 5th PETITIONER.

EXT.P6 : TRUE COPY OF THE PERMIT ISSUED TO the 6th PETITIONER.

EXT.P7 : TRUE COPY OF THE PERMIT ISSUED TO the 7th PETITIONER.

EXT.P8 : TRUE COPY OF THE PERMIT ISSUED TO the 8th PETITIONER.

EXT.P9 : TRUE COPY OF THE PERMIT ISSUED TO the 9th PETITIONER.

EXT.10 : TRUE COPY OF THE PERMIT ISSUED TO the 10th PETITIONER.

EXT.P11 : TRUE COPY OF THE PERMIT ISSUED TO the 11th PETITIONER.

EXT.P12 : TRUE COPY OF THE PERMIT ISSUED TO the 12th PETITIONER.

EXT.P13 : TRUE COPY OF THE PERMIT ISSUED TO the 13th PETITIONER.

EXT.P14 : TRUE COPY OF THE PERMIT ISSUED TO the 14th PETITIONER.

EXT.P15 : TRUE COPY OF THE PROCEEDINGS DATED 27.3.2015 ISSUED TO the 1st PETITIONER.

EXT.P16 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 2nd PETITIONER.

EXT.P17 : TRUE COPY OF THE PROCEEDINGS DATED 7.4.2015 ISSUED TO the 3rd PETITIONER.

EXT.P18 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 4th PETITIONER.

EXT.P19 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 5th PETITIONER.

EXT.P20 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 6th PETITIONER.

EXT.P21 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 7th PETITIONER.

EXT.P22 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 8th PETITIONER.

EXT.P23 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 9th PETITIONER.

EXT.P24 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 10th PETITIONER.

EXT.P25 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 11th PETITIONER.

EXT.P26 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 12th PETITIONER.

EXT.P27 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 13th PETITIONER.

EXT.P28 : TRUE COPY OF THE PROCEEDINGS DATED 12.2.2015 ISSUED TO the 14th PETITIONER.

//TRUE COPY//

P.A.TO JUDGE

ami/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.26142 of 2015

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Dated this the 21st day of August, 2015

JUDGMENT

The petitioners in this writ petition are aggrieved by the condition imposed by the District Collector while he has issued contract carriage permit to the petitioners vehicle for all fit roads in Thrissur Corporation subject to the condition that the vehicle shall not be parked or it shall not pick the passengers from the local limits of the city.

2. The petitioners are the registered owners of autorickshaw bearing No.KL 48/8059, KL 08 AZ/3716, KL 08 F/723, KL 08 BE/2401, KL 08 AM/3706, KL 08 BC/331, KL 08 AX/9725, KL-08 AW/6036, KL-08 BA/8542, KL-08 AU/7640, KL-08 AV/8870, KL-08 BE/632, KL-08 BD/4571 and KL-08 AP/9486. Originally Thrissur was a Municipality. Thrissur Corporation was established subsequently and territorial limits of the Municipality was extended by adding the neighbouring panchayats. The place of residence of the

petitioners do not form part of the original Thrissur Municipality. However, on account of widening of the territorial limits, the petitioners' residential place became within the limits of the Thrissur Corporation. Section 74(3) of the M.V.Act governs the grant of contract carriage permits and there is no notification issued by the government limiting the number of autorickshaws in Thrissur Corporation, without which the Motor Vehicle authorities cannot impose a condition as made in Ext.P1 to Ext.P14 permits. Similarly, the respondents 1 and 2 cannot issue Ext.P15 to P28 proceedings denying the request of the petitioners for entering the limits of Thrissur Corporation and taking passengers. The present proceedings issued by the 2nd respondent are per se illegal and the same are liable to be interfered by this Court. It is with this backdrop, the petitioners have approached this Court.

3. I have heard the learned counsel for the petitioners

and the learned Government Pleader in the matter.

4. This Court had occasion to consider similar fact situation in WPC No.12993/2015. Though the District Collector in the district concerned is to be guided by Section 74 of the Kerala Motor Vehicles Act, he has imposed the restriction which is challenged in this writ petitions on the basis of a circular issued by the Transport Commissioner. This Court in **Rajesh v Secretary, RTA** (2014(3) KLT 341) has held that the Regional Transport authority cannot make a general order that only a certain number of permits would be granted in an area. The mere existence of a number of permits and the decision by the Regional Transport Authority or a higher authority to restrict the grant based on numbers alone would fall foul, since such limits could be prescribed only by the State Government under a notification; so found this Court in the aforesaid decision. Therefore, the condition imposed shall not be allowed to stand.

In the result, this writ petition is disposed of directing the Regional Transport Authority to reconsider the issue on the application submitted by the petitioners for the grant of contract carriage permits for their vehicles seeking permission to park within the local limits of the Thrissur Corporation and to pass positive orders within a period of one month from the date of receipt of a copy of this judgment, in the light of what has been stated above.

Sd/-
A.V.RAMAKRISHNA PILLAI,
Judge.

ami/

//True copy//

P.A. to Judge