

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 27908 of 2014 (K)

PETITIONER(S) :

**JOJO P.V, AGED 43 YEARS,
S/O.P.O.VAREETH, PUTHUKADAN HOUSE, KASTURBA LANE,
KOOKKENCHERRY, TRISSUR.**

BY ADV. SRI.SABU S.KALLARAMOOLA

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF TRANSPORT, SECRETARIAT,
TRIVANDRUM-695 001.**
- 2. THE REGIONAL TRANSPORT AUTHORITY,
KANNUR, REP. BY ITS SECRETARY-670 002.**
- 3. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, KANNUR-670 002.**
- 4. P.K.SARITHA,
W/O.T.SUBASH, MUKTI NIVAS, PARASSINIKADAVU,
THALIPARAMBA, KANNUR.**
- 5. SHABEER ALI,
PARAMBIL HOUSE, VALPARAMBA, EAST NALLUR,
FEROKE, KOZHIKODE.**

**R1 TO R3 BY GOVERNMENT PLEADER SRI.R.RANJITH
R5 BY ADV. SRI.I.DINESH MENON**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE REGULAR STAGE CARRIAGE PERMIT NO.18/42/1994 ISSUED BY THE RTA, VATAKARA.**
- EXT.P2: TRUE COPY OF THE STAGE CARRIAGE PERMIT ISSUED IN THE NAME OF THE 4TH RESPONDENT.**
- EXT.P3: TRUE COPY OF ORDER IN MVARP NO.89/2011 OF STAT.**
- EXT.P4: TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.7618/2012 OF THIS HONOURABLE COURT.**
- EXT.P5: TRUE COPY OF THE PROCEEDINGS DATED 29/05/2012 OF THE 2ND RESPONDENT.**
- EXT.P6: TRUE COPY OF THE STAGE CARRIAGE PERMIT ISSUED IN THE NAME OF THE 5TH RESPONDENT.**
- EXT.P7: TRUE COPY OF PROCEEDINGS DATED 18/02/2014 OF THE 3RD RESPONDENT.**
- EXT.P8: TRUE COPY OF REQUEST DATED 20/02/2014 OF THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

K.VINOD CHANDRAN, J

W.P.(C).No. 27908 of 2014

Dated 24th February, 2015

JUDGMENT

The petitioner is aggrieved with the operations carried on by the 5th respondent in the route Cherupuzha-Thrissur. The petitioner is a stage carriage operator having a regular permit in the route Thrissur-Kozhikode-Kannur said to be operating as Limited Stop Fast Passenger (LSOS). The petitioner contends that, the 4th respondent has obtained Ext.P6 stage carriage permit violating the provisions of the Kerala Motor Vehicles Act, 1988, and by employing fraud on the authorities.

2. The said stage carriage permit was in fact, that of the 4th respondent and despite the 4th respondent having obtained a renewal as per Ext.P5, the 4th respondent never operated the

said route, is the contention. The learned counsel for the petitioner also contends that the petitioner had sought for conversion of the service from Limited Stop Ordinary Service to Super Fast Service which was allowed as per Ext.P7 pursuant to a decision of this Court in W.P.(C).495/2014. The said decision is also obtained by fraud, is the contention.

3. I have heard the learned counsel for the petitioner as also the learned counsel appearing for the 5th respondent. The Judges Papers with respect to W.P.(C).495 of 2014 was called for. On a perusal of the Jps, it is seen that the petitioner had styled himself as an existing stage carriage operator who had been operating for long in a regular permit in the route Cherupuzha - Thrissur and claimed for transfer of category to one of Super Fast Service.

4. The 5th respondent has now produced the proceedings of the RTA, Kannur, held on 29.05.2012 simultaneous to Ext.P5 proceedings which was a transfer ordered from the 4th respondent to the 5th respondent. It is also evident that such transfer has been made since Ext.P5 speaks of a direction to the transferee to produce the current records of the vehicle within 30 days of despatch. Hence, there can be no fraud found in the proceedings initiated by the 3rd respondent.

5. Definitely, there is some mistake in the averments made in W.P.(C).495 of 2014 that the 5th respondent had been continuing in the route for long. However, that does not amount to any deliberate intention of misleading the Court. Even otherwise, the 5th respondent having obtained transfer of the permit from the 4th respondent, could have validly approached this

Court for conversion of the service to a Super Fast Service.

6. The further contention of the learned counsel for the petitioner is that, Ext.P6 could only have been issued after Ext.P7 proceedings. There is absolutely no basis for such assumption. Ext.P6 was pursuant to Ext.P5 and the document now produced as Ext.R5(a) being respectively, the renewal of permit and the transfer effected by the competent authority. The same is evident since Ext.P6 speaks of Limited Stop Ordinary Service. Ext.P7 is a proceeding of conversion of category of service which is as per the directions issued in W.P.(C).495 of 2014.

7. In the above circumstances, this Court does not find any infirmity in the issuance of Ext.P7. However, it is submitted by the learned

Government Pleader that there is a restriction insofar as the Super Fast Services are concerned, which also is the subject matter of challenge in a batch of Writ Appeals before this Court. Definitely, the operation of Super Fast Services would be subject to the result of the said Writ Appeals.

The writ petition would stand dismissed. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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