

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 30292 of 2014 (J)

PETITIONER(S):

**HARIBHADRAN NAIR, AGED 57 YEARS,
S/O.GOVINDA SWAMY, VADASSERIMADATHIL,
KATTOOR P.O., RANNI TALUK,
PATHANAMTHITTA DISTRICT, PIN-689 650.**

**BY ADVS.SRI.V.SETHUNATH,
SRI.V.R.MANORANJAN (MUVATTUPUZHA).**

RESPONDENT(S):

- 1. THE TRANSPORT COMMISSIONER,
TRANS TOWERS, VAZHUTHACAD, THYCAUD P.O.,
THIRUVANANTHAPURAM, PIN-695 014.**
- 2. THE REGIONAL TRANSPORT OFFICER,
PATHANAMTHITTA, PIN-689 645.**
- 3. MR.VISHWANATHAN,
ASST. MOTOR VEHICLES INSPECTOR,
REGIONAL TRANSPORT OFFICE,
PATHANAMTHITTA, PIN-689 645.**
- 4. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO
TRANSPORT DEPARTMENT,
THIRUVANANTHAPURAM, PIN-695 001.**

R1, R2 & R4 BY GOVT. PLEADER SRI.R. RANJITH.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1 : TRUE COPY OF THE REGN. PARTICULARS OF THE
VEHICLE NO.KL-62A-2351.**

EXHIBIT P2 : TRUE COPY OF THE NEWS PAPER REPORT.

**EXHIBIT P3 : TRUE COPY OF THE RECEIPT ISSUED BY THE DISTRICT
POLICE CHIEF.**

**EXHIBIT P4 : TRUE COPY OF THE PETITION FILED BEFORE THE
RESPONDENTS 1 AND 2.**

**EXHIBIT P5 : TRUE COPY OF THE VEHICLE CHECK REPORT ISSUED BY
3RD RESPONDENT.,**

**EXHIBIT P6 : TRUE COPY OF THE REGISTRATION CARD ISSUED BY THE
REGIONAL CANCER CENTRE, THIRUVANANTHAPURAM.**

**EXHIBIT P7 : TRUE COPY OF THE TREATMENT CERTIFICATES ISSUED BY THE
AMRITA INSTITUTE OF MEDICAL SCIENCE.**

**EXHIBIT P8: TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT
DATED 07/01/2015.**

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P.(C) No. 30292 of 2014

Dated this the 21st day of January, 2015

J U D G M E N T

The petitioner, an Ex-service man, was driving a contract carriage vehicle when allegedly an incident occurred wherein the 3rd respondent, who was the Assistant Motor Vehicles Inspector, Regional Transport Office, Pathanamthitta, stopped it for vehicle checking and found that the vehicle does not have a 'Pollution Under Control' certificate as provided under Rule 115(7) of CMV Rules 1989.

2. The petitioner, however, contends that the 3rd respondent had asked for a bribe of Rs.1,000/- which, as an Ex-serviceman, the petitioner refused to give. It is further alleged that the petitioner, who had implants in his body was pushed against the vehicle which caused dislodging of the implants. The petitioner is said to have been admitted

to a hospital on the very same day and the petitioner has also filed a complaint before the appropriate authorities, being the District Police Superintendent, Pathanamthitta, by Ext.P3. An F.I.R. was also registered by the Police against the 3rd respondent. The petitioner in the above writ petition seeks an enquiry into the assault on the petitioner, the return of the driving license of the petitioner, issuance of a legible copy of Ext.P5 and a direction to meet the treatment expenses of the petitioner.

3. With respect to the conduct of an enquiry into the assault on the petitioner, it is to be noticed that the 2nd respondent, the Regional Transport Officer, Pathanamthitta, has filed an affidavit in which it has been stated that on 13.10.2014, a complaint from the 3rd respondent was received by the 2nd respondent, wherein it was stated that the petitioner who had been driving a transport vehicle without badge and without the 'Pollution Under Control'

certificate was stopped for inspection and was issued with a check report, which he had acknowledged. However, later on, the petitioner is said to have turned violent and started abusing the checking officer.

4. The 2nd respondent has conducted an enquiry and it is also revealed that the petitioner himself had signed on the check report and having issued a check report, there would be no reason for the 3rd respondent to demand a bribe. It is also to be noticed that despite the counter affidavit of the Government, specifically indicating that the petitioner did not have a badge, the petitioner has not chosen to produce the badge nor has he refuted the said contention in the reply affidavit.

5. In the circumstances noticed above, and in the context of the enquiry having already been conducted by the superior officers of the 3rd respondent, there would be no requirement for a further enquiry.

6. If the driving license of the petitioner has been seized by the respondents, then necessarily the same ought to be returned to the petitioner. The petitioner is also entitled to a legible copy of Ext.P5 which shall be issued.

7. However, with respect to the treatment expenses sought for, it is to be noticed that there are two different versions about the incident - by the petitioner and the 3rd respondent. With respect to the incident, admittedly the petitioner has given a First Information Statement as per which a First Information Report has been registered, which definitely would have to be proceeded with in accordance with law by the police authorities. It is pertinent that the F.I.R. has not been produced here. Further, the claim of treatment expenses would depend upon the petitioner substantiating before the appropriate Court the version of the incident as submitted by him. In view of the different versions, this Court would not invoke its extra ordinary

remedy under Article 226, to grant such prayers.

8. The petitioner would have reserved his contentions before the criminal Court, if eventually a charge is laid, pursuant to the F.I.R. and would also have reserved remedies to seek the treatment expenses, in the appropriate forum.

The Writ Petition hence would stand disposed of directing the 3rd respondent to issue a legible copy of Ext.P5, as also to re-convey the driving license, which is said to be impounded, on the petitioner, making an application in accordance with law. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE

jjj