

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 31063 of 2014 (G)

PETITIONER(S):

1. **SEBASTIAN V M, AGED 45 YEARS**
S/O.MATHAI V.K., VIRIPPAMATTATHIL HOUSE
MOOLANKAVU P.O., SULTHAN BATHERY.
2. **E.V.SURESH, AGED 40 YEARS,**
S/O.VELAYUDHAN, ELAYATTUM VEETIL, PAZHUPATHOOR P.O.
SULTHAN BATHERY.
3. **K.R.KRISHNA PRASAD, AGED 36 YEARS**
S/O.RAMANKUTTY, KILAYIL HOUSE, POOMALA P.O.
CHETTIMOOLA, SULTHAN BATHERY.
4. **K.SAJIR, AGED 26 YEARS,**
S/O.AZEEZ, KOYILATH MALAYIL HOUSE, KUPPADI P.O.
SULTHAN BATHERY.
5. **P.K.ISMAIL, AGED 31 YEARS**
S/O.EBRAHIM, PALLIKANDY HOUSE, BEENACHI P.O.
SULTHAN BATHERY.
6. **JAYFAR ALI, AGED 36 YEARS**
S/O.SAITHALAVI, VERANGAL HOUSE, KUPPADI P.O.
SULTHAN BATHERY.
7. **V.BALAKRISHNAN, AGED 58 YEARS,**
S/O.KUMARAN, VENGALATH HOUSE, CHULLIYODE P.O.
SULTHAN BATHERY.
8. **SAJAN P.N., AGED 47 YEARS**
S/O.NARAYANAN, POOVAKKOTUPARANBIL HOUSE, KAIPPANCHERRY
SULTHAN BATHERY.
9. **ISSAC N.P., AGED 50 YEARS**
S/O.PETER, NADUVILEDATH HOUSE, KUPPADI P.O.
SULTHAN BATHERY.
10. **HARRIS BABU, AGED 32 YEARS**
S/O.BAHSEER, VALAPPIL HOUSE, KUPPADI P.O.
SULTHAN BATHERY.

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11. BAIJU, AGED 35 YEARS
S/O.UNNI, 4/677, PANNANKOTTATHIL HOUSE
SULTHAN BATHERY.
12. JIJO T.BABY, AGED 27 YEARS
S/O.BABY, THOBRAYIL HOUSE, CHETHALAYAM P.O.
SULTHAN BATHERY.
13. M.J.SEBASTIAN, AGED 60 YEARS
S/O.JOSEPH, MUNJELIL HOUSE, KUPPADI P.O.
SULTHAN BATHERY.
14. B.G.KISHORE, AGED 34 YEARS
S/O.GOPALAN, BHOOMIKUZHIL HOUSE, CHETHALAYAM P.O.
SULTHAN BATHERY
15. M.M.SHEMEER, AGED 27 YEARS
S/O.MUHAMMADALI, MUNDANTHODI HOUSE, CHETHALAYAM P.O.
SULTHAN BATHERY.
16. RATHEESH C.P, AGED 32 YEARS
S/O.KARIYATHAN, CHENNIKKUPARAMBIL HOUSE, POOMALA P.O.
MANICHIRA, SULTHAN BATHERY.
17. RATHEESH T.BALAN, AGED 34 YEARS,
S/O.BALAN, CHOORIMALAYIL HOUSE, KOLAGAPPARA P.O.
SULTHAN BATHERY.
18. ABDUL RAHIMAN, AGED 55 YEARS
S/O.ALI, 467 A, KARAT HOUSE
KUPPADI P.O., SULTHAN BATHERY.
19. MOHAMMEDKUTTY, AGED 35 YEARS
S/O.MOIDEENKUTTY, 142 NEDUMPARAMBIL HOUSE
BEENACHI P.O., SULTHAN BATHERY.
20. HAMZA, AGED 52 YEARS
S/O.MUHAMMED, MANGALANKADAN HOUSE, PAZHUPATHOOR P.O.
SULTHAN BATHERY.
21. SASI, AGED 27 YEARS
S/O.RAMANKUTTY, 5/237, PARAMUKALIL HOUSE
NENMENI, THOVARIMALA P.O., SULTHAN BATHERY.
22. VINOTH, AGED 33 YEARS
S/O.JOHN, VELLACHAL HOUSE, BEENACHI P.O.
SULTHAN BATHERY.
23. NOUSHAD, AGED 45 YEARS
S/O.ABDUL REHIMAN, 3/111 A, KARIMKUDIKKAL
PAZHUPATHOOR P.O., SULTHAN BATHERY.

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24. ABDUL RAHEEM,
S/O.SAITHALAVI, 673, MANAYANGAD HOUSE
SULTHAN BATHERY.
 25. SHOUKATHALI, AGED 26 YEARS
S/O.MUHAMMED, 7/629 E, THENGUMTHODIYIL HOUSE
KOLIYADI, NENMENI P.O., SULTHAN BATHERY.
 26. PAPPACHAN, AGED 55 YEARS
S/O.MATHAI, MALIYEKKAL HOUSE, KUPPADI P.O.
SULTHAN BATHERY.
 27. JOBISH, AGED 33 YEARS
S/O.JOSEPH, AKKARAYIL HOUSE, CHETHALAYAM P.O.
SULTHAN BATHERY.

BY ADVS.SRI.N.MANOJ KUMAR
SMT.JAYASREE MANOJ

RESPONDENT(S):

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1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
HOME DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
 2. THE REGIONAL TRANSPORT OFFICER,
SULTHAN BATHERY, WAYANAD DISTRICT - 673 592.
 3. SULTHAN BATHERY GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, SULTHAN BATHERY
WAYANAD DISTRICT - 673 592.
 4. THE SUB INSPECTOR OF POLICE,
SULTHAN BATHERY, WAYANAD DISTRICT - 673 592.
 5. SULTHAN BATHERY AUTO RICKSHAW CO-ORDINATION COMMITTEE,
REPRESENTED BY ITS CONVENOR, K.L.KRISHNAN
S/O.NARAYANAN, KALLUMOLAYIL HOUSE, KIDANGANAD P.O.
PANAYAMBAM, SULTHAN BATHERY
WAYANAD DISTRICT - 673 592.

* ADDL.R6 IMPEADED

6. THE RTA
SULTHAN BATHERY, WAYANAD.

ADDL.R6 IS SUO MOTU IMPEADED AS PER ORDER JUDGMENT DATED
10.02.2015.

R1,2,3,6 BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE RELEVANT PAGE OF THE CERTIFICATE OF REGISTRATION OF THE 1ST PETITIONER'S VEHICLE KL-73-438
- P2: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 12/8/2013 ISSUED TO THE 1ST PETITIONER
- P3: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 02/8/2013 ISSUED TO THE 2ND PETITIONER
- P4: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 22/10/2013 ISSUED TO THE 3RD PETITIONER
- P5: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 30/11/2013 ISSUED TO THE 4TH PETITIONER
- P6: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 21/10/2013 ISSUED TO THE 5TH PETITIONER
- P7: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 23/10/2013 ISSUED TO THE 6TH PETITIONER
- P8: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 13/9/2013 ISSUED TO THE 7TH PETITIONER
- P9: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 27/9/2013 ISSUED TO THE 8TH PETITIONER
- P10: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 4/6/2013 ISSUED TO THE 9TH PETITIONER
- P11: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 18/1/2014 ISSUED TO THE 9TH PETITIONER
- P12: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 23/1/2014 ISSUED TO THE 11TH PETITIONER
- P13: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 27/4/2013 ISSUED TO THE 12TH PETITIONER
- P14: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 2/8/2013 ISSUED TO THE 13TH PETITIONER
- P15: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 8/10/2013 ISSUED TO THE 14TH PETITIONER
- P16: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 30/11/2013 ISSUED TO THE 15TH PETITIONER

PJ

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- P17: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 30/01/2014
ISSUED TO THE 16TH PETITIONER**
- P18: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 13/9/2013 ISSUED
TO THE 17TH PETITIONER**
- P19: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 7/01/2014 ISSUED
TO THE 18TH PETITIONER**
- P20: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 4/8/2014 ISSUED
TO THE 19TH PETITIONER**
- P21: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 8/4/2014 ISSUED
TO THE 20TH PETITIONER**
- P22: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 29/4/2014 ISSUED
TO THE 21ST PETITIONER**
- P23: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 7/01/2014 ISSUED
TO THE 22TH PETITIONER**
- P24: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 25/1/2014 ISSUED
TO THE 23RD PETITIONER**
- P25: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 4/01/2014 ISSUED
TO THE 24TH PETITIONER**
- P26: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 25/08/2014
ISSUED TO THE 25TH PETITIONER**
- P27: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 7/08/2013 ISSUED
TO THE 26TH PETITIONER**
- P28: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 18/02/2014
ISSUED TO THE 27TH PETITIONER**
- P29: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 20/12/2011
ISSUED TO ANIL T.R.**
- P30: TRUE COPY OF THE REPRESENTATION DATED 5/8/2014 SUBMITTED BY THE
FOUR WHEEL TAXI OWNERS AND DRIVERS ASSOCIATION BEFORE THE 2ND
RESPONDENT ALONG WITH THE RECEIPT.**
- P31: TRUE COPY OF THE REPRESENTATION DATED NIL SUBMITTED BY THE FOUR
WHEEL TAXI OWNERS AND DRIVERS ASSOCIATION BEFORE THE R3**
- P32: TRUE COPY OF THE REPRESENTATION DATED 27/8/2014 SUBMITTED BY THE
FOUR WHEEL TAXI OWNERS AND DRIVERS ASSOCIATION BEFORE THE R4**
- P33: TRUE COPY OF THE REPRESENTATION DATED 27/8/2014 SUBMITTED BY THE
FOUR WHEEL TAXI OWNERS AND DRIVERS ASSOCIATION BEFORE THE
CIRCLE INSPECTOR OF POLICE**

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- P34: TRUE COPY OF THE REPRESENTATION DATED 22/9/2014 SUBMITTED BY THE FOUR WHEEL TAXI OWNERS AND DRIVERS ASSOCIATION BEFORE THE 4TH RESPONDENT.**
- P35: TRUE COPY OF THE REPRESENTATION DATED 22/9/2014 SUBMITTED BY THE FOUR WHEEL TAXI OWNERS AND DRIVERS ASSOCIATION BEFORE THE 4TH RESPONDENT.**
- P36: TRUE COPY OF THE INTERIM ORDER DATED 23/8/2014 IN WPC NO.19450/2014 OF THE HON'BLE HIGH COURT OF KERALA.**
- P37: TRUE COPY OF THE JUDGMENT DATED 11/11/2014 IN WPC NO.29653/2014 OF THE HON'BLE HIGH COURT OF KERALA.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

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W.P.(C) No.31063 of 2014 - G

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Dated this the 10th day of February, 2015

J U D G M E N T

The petitioners have purchased Tata Iris Autorickshaws (Auto Taxi) and obtained contract carriage permits, as evidenced from Exts.P2 to P27. The grievance is that, despite the Secretary, Regional Transport Authority having specified parking place at Sultan Bathery, the petitioners are directed to park at a distant place called Manikunnu, wherein, except the Court Complex, there is absolutely no activity. The petitioners seek identification of a suitable parking place within the Sultan Bathery town itself. Though "Sultan Bathery" has been specified as the parking place, the petitioners are prevented from parking any where inside the town for reason of the objection of the 5th respondent.

2. The learned Government Pleader who appears

for respondents 1, 2 and 4 submits on instructions from the 4th respondent that, it is the Panchayath, who has arrived at a decision to permit the petitioners to park at Manikunnu. However, no order is said to have been communicated to the 4th respondent also.

3. In such circumstance, the writ petition itself was taken up and the petitioners' Counsel and learned Government Pleader were heard.

4. The issue with respect to parking of Auto taxies crop up intermittently all over the State; which is objected to by the Autorickshaw drivers. The Auto taxies are considerably of higher purchase value but have the same fares as Autorickshaws. Many of the persons, who purchase it, maintain it for eking out their livelihood by plying the same as a contract carriage. The Autorickshaws too are plied for the very same purpose and the Autorickshaws cannot be removed from the road on introduction of a newer model of Auto taxies nor can the

Auto taxis be interdicted from plying in the area where the Autorickshaws are plied. Both should adopt an attitude of “live and let live”; and endeavour to eke out a livelihood in the available circumstances and not by restricting operations of one or the other.

5. One other aspect which assumes significance is that when such restrictions are attempted, the authorities do not look at the convenience of the general public and are led by extraneous considerations. Auto taxis definitely is an improvisation on the Autorickshaws and is a more convenient mode of public transport. However, that is not to say that either of these should be elected to be restricted or allowed to be plied in exclusion of the other.

6. Again when such disputes arise, they come to this Court only since, the authorities under the various enactments as also the Local Self Government Institutions take a recalcitrant attitude and refuse to even attempt a conciliated settlement between the two parties. Herein,

despite notice being issued to the 3rd respondent, the Local Self Government Institution, none appear before this Court, for reasons best known to the 3rd respondent. The 5th respondent an Autorickshaw Co-ordination Committee, probably has not appeared, since, they are against the prayers sought for and can by their muscle power alone resist the claim of the petitioners. However, such a situation is not contemplated in a country where rule of law prevails. The Local Self Government Institution, the 3rd respondent also cannot abdicate its powers, statutorily conferred.

7. Notice having been served on the 3rd respondent, this Court definitely would issue directions to the 3rd respondent, who has to consider the application of the petitioners, produced at Ext.P30 in a reasonable manner after hearing the representatives of the petitioner and the representatives of the 5th respondent; and specify a parking place for the Auto taxies, even at the parking spot,

identified for Autorickshaws. The Local Self Government Institution and the RTA could also, with the help of the Station House Officer having jurisdiction over the particular parking area, insist on a system being maintained wherein, alternatively an Autorickshaw and Auto taxi is allowed to be rented/hired by the general public. However, what is required for such a measure is the will on the part of the authorities, which cannot be substituted by a mere direction from this Court.

8. In any event, for the present, the 3rd respondent after hearing the representatives of the petitioners and the 5th respondent would take a decision in the matter and intimate the decision to the RTA, who is the authority to decide on parking places under Section 344 of the Kerala Motor Vehicles Rules, 1989, framed under Section 117 of the Motor Vehicles Act, 1988. To facilitate such consideration by the RTA, "The RTA, Sultan Bathery, Wayanad" is suo motu impleaded as the additional 6th

respondent. The Registry shall carry out impleadment before issuance of certified copies. The directions herein above shall be complied with by the 3rd respondent within a period of three months from the date of receipt of the certified copy of this judgment and the additional 6th respondent shall convene a meeting of the petitioners as also the representatives of the 5th respondent and arrive at a settlement as directed herein.

With the above directions, the writ petition would stand disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge