

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 33543 of 2014 (P)

PETITIONER :

C.K.MOHANAN, AGED 57 YEARS,
CHEMBUMKEEZHIDATHIL HOUSE, THILLANKERI P.O.,
MATTANNUR, THALASSERY
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
SRI. BALA MOHANA BABU
RATHIN NIVAS, P.O.PALAYAD, THALASSERY.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS :

1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, KANNUR - 670 001.

*ADDL. R2 IMPEADED :

*2. HASHIM, S/O. NABEESA, KOODAYULLAPARAMBATH HOUSE,
GRAMATHI, CHOKLI P.O., THALASSERY.

* ADDL. R2 IS IMPEADED AS PER ORDER DT 13/1/2015 IN IA NO.17258/2014

R1 BY GOVERNMENT PLEADER SRI. BIJU MEENATTOOR
ADDL.R2 BY ADV. SRI.I.DINESH MENON

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

bp

WP(C).No. 33543 of 2014 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE RELEVANT PORTION OF THE AGENDA OF THE MEETING OF THE REGIONAL TRANSPORT AUTHORITY.

EXHIBIT P2: TRUE COPY OF THE DECISION OF THE REGIONAL TRANSPORT AUTHORITY DATED 22.01.2014.

EXHIBIT P3: TRUE COPY OF THE NOTICE OF TIMING CONFERENCE DATED 30.10.2014 PUBLISHED BY THE RESPONDENT.

RESPONDENT(S)' EXHIBITS :

EXT.R2(a): COPY OF THE TEMPORARY PERMIT ISSUED TO THE PETITIONER ON THE ROUTE KARIYAD-THALASSERY IN PLACE ON KL-4 N 9167.

//TRUE COPY//

P.A. TO JUDGE

bp

K.VINOD CHANDRAN, J

W.P.(C).No. 33543 of 2014

Dated 2nd February, 2015

JUDGMENT

The petitioner seeks consideration of issuance of a regular permit and settlement of timings in the vacancy of another regular permit granted to stage carriage bearing registration No.KL-13 H 5436. Admittedly, the petitioner had applied for a regular permit on the route Kariyad-Thalassery (via) Peringathur, Chokli, Paral and Manjodi which was granted as per Ext.P2 on 22.01.2014. For the issuance of the permit, a timing conference was scheduled on 13.11.2014 as is evidenced at Ext.P3. The petitioner is said to have produced the current records of stage carriage bearing registration No.KL 58/637 which the petitioner sought to operate on the route. The petitioner in the above writ petition sought for issuance of the permit granted as per Ext.P2 with the timings

suggested in Ext.P1 being the defaulted service referred to above.

2. One another stage carriage operator has filed an impleading petition as I.A.17258/2014 wherein he claims that the vehicle, the current records of which has been produced by the petitioner, has already been granted another regular permit as is evidenced at Ext.R2(b). The additional 2nd respondent's claim is that he had also applied for a regular permit in the very same route and he has been operating in the time slot of the defaulted vacancy, on the temporary permit issued; that too continuously. The additional 2nd respondent hence claims a preference over the time slot in the defaulted vacancy.

3. Admittedly, the regular permit application of the petitioner was first in point

of time. The application of the additional 2nd respondent for a regular permit on the very same route was subsequent and before such application was filed, there was default in the regular permit granted to stage carriage bearing registration No.KL-13 H 5436. The additional respondent cannot claim preference to the time slot of the defaulted vacancy either for the reason that his was the first application filed after the vacancy was defaulted or on the ground that the temporary permit was issued on the said time slot.

4. However, with respect to the petitioner's case, it is evident that the current records which has been filed by the petitioner for the issuance of Ext.P2 permit has already been produced in Ext.R2(b) and a permit also has been granted to that vehicle. Hence the prayer in the writ petition cannot be allowed

since the vehicle, the current records of which has been produced, is no more available since it has been granted a regular permit in another route.

The writ petition hence, would stand closed; however the claim to the time slot of the defaulted vacancy would depend on the circumstances existing at the time of such consideration; which the authority would consider at the appropriate time.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//