

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 35255 of 2015 (F)

PETITIONER(S):

**A. SUMATHY,
W/O.ASHOK KUMAR, PAYYAROAD HOUSE,
MUDAPPALLUR P.O., ALATHUR,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.G.HARIHARAN,
SRI.PRAVEEN.H.,
SRI.C.RADHAKRISHNAN.**

RESPONDENT(S):

- 1. REGIONAL TRANSPORT AUTHORITY,
PALAKKAD, REPRESENTED BY ITS SECRETARY,
PIN - 678 001.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
PALAKKAD, PIN - 678 001.**

BY SR. GOVT. PLEADER SMT.K.A. SANJEETHA.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1: TRUE COPY OF THE REGULAR PERMIT RELATING TO BUS NO.KL-09M-7454 TO OPERATE ON THE ROUTE MANNARKKAD - THRISSUR WHICH IS VALID UP TO 15/01/2013
- EXT.P2: TRUE COPY OF THE INTERIM ORDER DATED 08/10/2012 MADE IN MVARP.NO.356/2012 BEFORE THE STATE TRANSPORT APPELLANT TRIBUNAL.
- EXT.P3: TRUE COPY OF THE CLEARANCE CERTIFICATE DATED 15/10/2012 ISSUED BY THE 2ND RESPONDENT.
- EXT.P4: TRUE COPY OF THE NOTIFICATION NO.45/2015/TRANS DATED 20/08/2015.
- EXT.P5: TRUE COPY OF THE APPLICATION FOR REPLACEMENT FILED BY THE PETITIONER ON 22/09/2015.
- EXT.P6: TRUE COPY OF THE APPLICATION DATED 22/09/2015 FOR RENEWAL OF PERMIT TO OPERATE ON THE ROUTE MANNARKKAD - THRISSUR.
- EXT.P7; TRUE COPY OF THE APPLICATION DATED 22/09/2015 FILED BY THE PETITIONER FOR GRANT OF TEMPORARY PERMIT UNDER SECTION 87(1) (D) OF THE MOTOR VEHICLES ACT.
- EXT.P8: TRUE COPY OF THE JUDGMENT DATED 06/10/2015 MADE IN THE WP(C).NO.29477/2015.
- EXT.P9: TRUE COPY OF THE MEMORANDUM OF APPEAL FILED BY THE PETITIONER IN CONNECTION WITH MVAA.NO.244/2015.
- EXT.P10: TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT ON 29/10/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. HARILAL, J.

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W.P. (C) No. 35255 of 2015

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Dated this the 2nd day of December, 2015

J U D G M E N T

The petitioner herein was the registered owner of bus No.KL-09/M-7454, which was covered by a regular stage carriage permit to operate on the inter-District route, Mannarkkad-Thrissur and the same was valid up to 15.01.2013. The petitioner filed an application for a temporary permit in respect of KL-13/P-8719, to operate on the aforesaid route in the vacancy of a former permit, in respect of bus No.KL-09/M-7454, which was issued with a clearance certificate on 15.10.2012, keeping its regular permit, R.P. No.9/304/2005 under suspended animation, as per the order of the State Appellate Tribunal, Ernakulam.

2. Earlier, the Regional Transport Authority, Palakkad in its decision in item No.63 had rejected the application, for renewal of permit in respect of the above

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stage carriage (KL-09/M-7454) stating that the vehicle covering permit was issued with a clearance certificate on 15.10.2012, but, the applicant had not applied for replacement offering a suitable vehicle, within the valid period of the permit, or even at the time of consideration of that application. In the meantime, the permit had expired and became invalid on account of non-replacement of the vehicle and hence, it was not renewed.

3. That apart, in a similar case, the RTA Palakkad, by order dated 12.02.2015 had already rejected an application for temporary permit in respect of the stage carriage No. KL-70/A-878 in the vacancy of the very same route, to operate on the above route and the decision was taken on a finding that major portion of the route objectionably overlaps with various notified routes violating G.O.(P) No.42/2009/Trans. dated 14.07.2009

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and KSRTC objected the application by stating that the route objectionably overlaps with the notified route for distance of 110 km. Thus, the earlier application filed by another stage carriage operator, seeking temporary permit stands rejected on the above reasoning and the petitioner has applied for the temporary permit on the same route.

4. On receipt of the application, seeking temporary permit, an enquiry report was called form from the Joint, Regional Transport, Officer, Alathur about necessity of stage carriage service on the above route with specific mention regarding any objectionable overlapping with notified sector. The field officer in his report stated that there is ample stage carriage services on the above route and the time gap available between the private stage carriage services is only 4 minutes. In addition to this, a large number of KSRTC buses are

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conducting town to town services and other long route services on the route. Therefore, granting of permit on that route may lead to unhealthy competitions among the stage carriage operators and thereby increasing the rate of accident along the route. Further it was reported that the major portion of the route objectionably overlaps with various notified sectors.

5. Having gone through the above reasoning, I am of the view that competent authority has applied its mind and arrived at a finding that at present, there is no necessity to grant temporary permit, as there are sufficient services through the route and there is no time gap. Even now, the existing timings are overlapping and KSRTC also objected the granting of temporary permit.

6. If the petitioner is aggrieved by the above reasoning, it is for the petitioner to seek appropriate remedies, as provided under the Motor Vehicles Act,

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1988 and the Rules, 1989 made thereunder. Hence, I do not find any extraordinary circumstance warranting interference by this Court, in exercise of the jurisdiction under Article 226 of the Constitution of India. The matter will stand left open to proper remedies provided under law and this will not stand in the way of seeking such remedies.

This Writ Petition is disposed of accordingly.

Sd/-
K. HARILAL,
JUDGE

DST

//True copy//

P.A. To Judge