

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

WP(C).No. 35348 of 2015 (P)

PETITIONER(S):

**NAFEESA,
W/O.ABOO, PARAKKAL HOUSE, P.O.ULLIYERI,
KOZHIKODE.**

BY ADV. SRI.I.DINESH MENON

RESPONDENT(S):

**THE SECRETARY, REGIONAL TRANSPORT AUTHORITY,
VADAKARA - 673 101.**

BY SENIOR GOVERNMENT PLEADER SMT.SANJEETHA K.A.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 35348 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE REGULAR PERMIT OF KL-56 B 7709.

P2 - TRUE COPY OF THE APPLICATION FOR REPLACEMENT DATED 19.11.2015.

P3 - TRUE COPY OF THE JUDGMENT IN WPC NO.8044/2015 DATED 13.3.2015

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

K. HARILAL, J.

W.P. (C) No.35348 of 2015

Dated this the 26th day of November, 2015

JUDGMENT

The petitioner is the holder of a regular permit, on the route Perambra - Purakkad. The regular permit is valid till 2/8/2019. The vehicle bearing Registration No.KL-56B-7709 which is being operated by the petitioner is a 2009 model vehicle having frequent mechanical troubles. Now the petitioner procured a vehicle and applied for replacement by remitting the requisite fees. The grievance of the petitioner is that the respondent refused to entertain the application for replacement of the vehicle on the ground that the proposed vehicle is lesser in model than that of the outgoing vehicle. According to the petitioner, there is no material difference between the outgoing vehicle and the incoming vehicle and hence the petitioner is

entitled for replacement as applied for.

2. The right of replacement of the vehicle has been considered by this Court in W.P.(c) No.3553/2013 dated 6/12/2013 and held that though discretion is vested in the respondent under Rule 174(2) of the Kerala Motor Vehicles Rules, 1989 to assess the merits and demerits of a vehicle, it cannot be extended to merely looking at the model or date of registration of the vehicle.

3. I am of the opinion that in view of the above decision, Ext.P2 application can be entertained and considered on merits. Therefore, the respondent is directed to entertain and consider Ext.P2 application and pass orders at the earliest, at any rate, within a period of three weeks from today.

This writ petition is disposed of accordingly.

(K. HARILAL, JUDGE)

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