

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 35630 of 2015 (C)

PETITIONER :

**SADHIK M.,
FAHAD MANZIL, AKG NAGAR,
MURIKAVU, WEST YAKKARA
PALAKKAD.**

BY ADV. SRI.I.DINESH MENON

RESPONDENT :

**THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY
PALAKKAD - 678 001.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 35630 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1- TRUE COPY OF THE REGULAR PERMIT OF KL - 09 Y 522.

**EXT. P2- TRUE COPY OF THE APPLICATION FOR REPLACEMENT DATED
16.11.2015 WITH COVERING LETTER.**

**EXT. P3- TRUE COPY OF THE JUDGMENT IN WP(C) NO.8044/15 DATED
13/3/2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

K. HARILAL, J.

W.P. (C) No. 35630 of 2015-C

Dated this the 1st day of December, 2015

JUDGMENT

The petitioner is the holder of a regular permit, on the route Kalladikode - Kongad. The regular permit is valid till 30/7/2018. The vehicle bearing Registration No.KL-09-Y-522 which is being operated by the petitioner is a 2008 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.

Sd/-

(K. HARILAL, JUDGE)

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//true copy//

P.S. to Judge