IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 36446 of 2015 (E)

PETITIONER:

RAVI V,
S/O. VASU,
23/387,
THIRUNELLAI
PALAKKAD.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENTS:
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1. **THE SECRETARY,**
   REGIONAL TRANSPORT AUTHORITY CUM REGIONAL TRANSPORT OFFICER
   PALAKKAD-678 001.

2. **THE DISTRICT EXECUTIVE OFFICER**
   KERALA MOTOR TRANSPORT WORKERS WELFARE FUND
   PALAKKAD-678 001.

R1 BY GOVERNMENT PLEADER SRI. S. SUDHESH KUMAR
R2 BY SRI.K.S.MANU, SC, KMTWWFB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 36446 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : **COPY OF THE RC BOOK WITH NUMBER KL-9/AJ 3765.**

P2 : **COPY OF THE NATIONAL PERMIT FOR GOODS CARRIAGE PERMIT NO.N.P.GD.C9/1026/2015 DTD.8.6.2015.**

P3 : **COPY OF THE DEMAND DRAFT WITHITS NO.880743 DTD.15.10.2015.**

P4 : **COPY OF THE COVERING LETTER SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD.15.10.2015.**

P5 : **COPY OF THE INFORMATION ISSUED BY THE 2ND RESPONDENT WITHITS NO.576/15 DTD.16.10.2015.**

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

K. HARILAL, J.

W.P. (C) No. 36446 of 2015-E

Dated this the 08th day of December, 2015

JUDGMENT

The petitioner is the holder of a goods carriage national permit in respect of vehicle KL-9-AJ-3765. According to the petitioner, the said vehicle was registered in the name of the petitioner with effect from 23.03.2015 from that of the vehicle No. TN-01-AJ-4660 which stood registered in Tamil Nadu. This vehicle is issued with a goods carriage national permit with effect from 08.06.2015 by Ext. P2. According to the petitioner for paying the vehicle tax, the clearance has to be obtained from the second respondent, as per the provisions of Section 4(7) and (8) of the Kerala Motor Vehicles Tax Act as amended. The petitioner contends that as per the said provisions, the person liable to pay the contribution under the Kerala Motor Transport Workers Welfare Fund Act shall before effecting payment of tax produce the receipt of remittance of contribution towards welfare fund due upto the preceding month. As per the very same Section, it applies only to 'motor transport undertaking' and it becomes a 'motor transport undertaking' only, when the permit is issued. When the petitioner approached the second respondent, to remit the welfare fund contribution from the date of issuance of permit, the second respondent refused to accept the same and passed Ext. P5 stating that the petitioner has to remit the welfare fund contribution from the date of registration of the vehicle as from March, 2015 onwards. According to the petitioner, he is not liable to remit the welfare fund contribution from the date of registration of the vehicle, but he is liable to pay contribution from the date of issuance of the permit only. Hence, this writ petition is filed to issue a writ of certiorari or any other writ, calling for all records leading to Ext. P5 and quash the same and also to issue a direction to the second respondent to accept welfare fund contribution from the date of issuance of the permit.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for the first respondent

and the learned standing counsel for the second respondent.

3. The short question that arise for consideration is, whether the petitioner is liable to pay welfare fund contribution from the date of registration of the vehicle. The relevant dates pertaining to the registration of the vehicle and the issuance of the permit are not disputed. The vehicle was re-registered on 23.03.2015 and the permit was issued on 08.06.2015 only. Indisputably, the vehicle cannot be put in use for transporting goods unless a permit is issued to that effect to the petitioner's vehicle. Therefore, the date of issuance of the permit is significant and the date of re-registration of the vehicle has no significance at all, while considering the liability to pay welfare fund contribution. Even if, the petitioner is the owner of the vehicle, he cannot put the vehicle in use unless the permit is granted to him.

4. In that view of the matter, it is not reasonable or rational to say that the petitioner is liable to pay the welfare fund contribution from the date of re-registration

of the vehicle. In the above view of the matter, Ext. P5 will stand quashed and the second respondent is directed to accept the welfare fund contribution from the date of issuance of goods carriage permit, within a period of one week from the date of receipt of a copy of this judgment.

The writ petition is disposed of accordingly.

K. HARILAL, JUDGE

DCS