IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 15TH DAY OF DECEMBER 2020 / 24TH AGRAHAYANA, 1942

WP(C).No.27300 OF 2020(J)

PETITIONER:

SUNI PHILIP,
S/O.PHILIPOSE, AZHAKANAKUZHIYIL HOUSE,
AYIROOR SOUTH P.O., AYIROOR, RANNI,
PATHANAMTHITTA DISTRICT

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:

1 **THE REGIONAL TRANSPORT AUTHORITY**
PATHANAMTHITTA-PIN 689 645
REPRESENTED BY ITS SECRETARY

2 **THE SECRETARY**
REGIONAL TRANSPORT AUTHORITY,
PATHANAMTHITTA-PIN 689 645

SRI BIMAL K NATH, SR GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner states that he is an existing stage carriage operator and holds Ext.P1 regular permit in respect of stage carriage bearing Reg. No.KL-03/J 7301, as per which, he has been permitted to conduct service on the route Ranni - Thrikkunnapuzha. Ext.P1 has expired on 12.09.2020. Due to various factors, the petitioner states that he was unable to submit an application seeking renewal in time. On 27.11.2020, he submitted Ext.P2 application along with a covering letter seeking renewal. Since the original vehicle is an older model vehicle, he submitted Ext.P3 application seeking replacement. In addition, he also submitted Ext.P4 application for issuance of temporary permit. He states that the respondents have refused to accept the application for renewal on the ground that the records of the outgoing vehicle has not been produced. He contends that this Court in Ext.P5, as well as Ext.P6 judgment, have held that the authorities can only insist that the tax arrears as well as contribution to the welfare funds are to be cleared but cannot insist for production of current records of outgoing vehicle. It is in the afore circumstances that the petitioner is before this Court seeking the following reliefs:

> i issue a writ of mandamus or other appropriate writ, order or direction to the respondents to entertain and consider Ext.P2 application for renewal of permit and pass orders in the

matter on merit matter by circulation of papers without insisting the production of current records of the outgoing vehicle as held in Ext.P5 and P6 judgments.

ii issue appropriate writ, order or direction to the 2nd respondent to entertain and consider Ext.P3 application for replacement of vehicle and pass orders in the matter without insisting the production of current records of the outgoing vehicle as held in Ext.P5 and P6 judgments.

iii issue appropriate direction to the 2nd respondent to entertain Ext.P4 application for temporary permit on the route Ranni-Thrikkunnapuzha in the vacancy of petitioner's stage carriage No.KL 03/J 7301 and grant and issue the temporary permit, till orders are passed in the application for renewal and replacement.

2. The learned Government Pleader would rely on **Usman v. RTA, Malappuram** (2015 (4) KHC 779) and it was argued that the application for renewal of permit and replacement cannot be allowed at one shot. He would also point that the petitioner is bound to clear the tax arrears as until the tax is paid the permit will remain in suspended animation and will revive only when the tax is paid. He would further contend that Ext.P4 application for temporary permit cannot be considered as the purpose for which temporary permit has sought for does not fall within any of the circumstances as provided under Section 87 of the Motor Vehicles Act, 1988.

3. I have considered the submissions advanced.

4. Having regard to the facts presented and the submissions made across the Bar, since it is the case of the petitioner that his application for renewal of regular permit and replacement of vehicle is pending consideration, this writ petition is disposed of directing the respondents to take up and consider the application for renewal of regular permit on the petitioner remitting the tax arrears and the welfare fund dues. The respondents shall not insist for the production of current records of the outgoing vehicle. If favourable orders are issued in favour of the petitioner on his application for renewal, the respondents shall consider Ext.P3 application for replacement. The application shall be considered as per procedure and in accordance with law, expeditiously, at any rate, within a period of eight weeks from the date of production of a copy of the judgment.

The petitioner shall produce a copy of the writ petition along with the judgment before the respondents to ensure compliance.

Sd/-

RAJA VIJAYARAGHAVAN V

JUDGE

DSV

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE REGULAR PERMIT ISSUED TO THE PETITIONER'S STAGE CARRIAGE BEARING NO.KL 03/J 301**
EXHIBIT P2	**TRUE COPY OF THE APPLICATION FOR RENEWAL OF REGULAR PERMIT SUBMITTED BY THE PETITIONER DATED 27.11.2020 ALONG WITH COVERING LETTER**
EXHIBIT P3	**TRUE COPY OF THE APPLICATION FOR REPLACEMENT DATED 27.11.2020**
EXHIBIT P4	**TRUE COPY OF THE APPLICATION FOR TEMPORARY PERMIT DATED 27.11.2020**
EXHIBIT P5	**TRUE COPY OF THE JUDGMENT DATED 22.5.2014 IN WP(C) NO.11581 OF 2014 RENDERED BY THIS HON'BLE CORUT**
EXHIBIT P6	**TRUE COPY OF THE JUDGMENT DATED 7.4.2016 IN WP(C) NO.12901 OF 2016 RENDERED BY THIS HON'BLE COURT**

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE