**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE GOPINATH P.**

**WEDNESDAY, THE 29TH DAY OF MAY 2024 / 8TH JYAISHTA, 1946**

**WP(C) NO. 26002 OF 2015**

**PETITIONERS:**

1 KUNNATH VEETTIL RAJESH
AGED 38 YEARS, S/O.RAGHAVAN K V,
PUTHIYA PURAYIL HOUSE, MUNDAYAD, THAZHE CHOVVA P O,
KANNUR.

2 PAVITHRAN M
AGED 61 YEARS, S/O.DAMODARAN,
SREEDEEPAM, ONDENPARAMB, KANNUR.

3 SIVANANDAN T V
AGED 60 YEARS, S/O.BAPPU,
THAZHATHU VEETIL, P O THAZHECHOVVA, KANNUR.

4 PRADEEPAN
S/O.CHATHUKUTTY,
ELAYAVOOR, VARAM P O, KANNUR.

5 KALATHIL AJITH
S/O.KALATHIL RAGHAVAN,
RESIDING AT KALATHIL HOUSE, HOUSE NO 450,
WARD NO IV, NEAR DESHA BANDU VAYANASALA, ELAYAVOOR,
KANNUR.

BY ADV SRI.C.K.SREEJITH

**RESPONDENTS:**

1 SECRETARY TO GOVERNMENT
LEGAL METROLOGY DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.

2 THE CONTROLLER
LEGAL METROLOGY DEPARTMENT, VIKAS BHAVAN,
THIRUVANANTHAPURAM -695 001

3 THE ASSISTANT CONTROLLER
LEGAL METROLOGY DEPARTMENT, KANNUR -670 001.

BY ADV. SRI. K P HARISH (SR GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

# JUDGMENT

This writ petition was filed seeking the following reliefs:

i. *"issue writ of mandamus or such other writ or direction directing the respondents not to collect fine of Rs.2000/- from autorickshaws who were failed to conduct physical verification of auto meter at least with effect from 1/1/2014.*

ii. *issue writ of mandamus or such other writ or direction directing the respondents to grant benefit of Ext. P4 with effect from 1/4/2014.*

iii. *issue writ of certiorari quashing Ext.P1 Circular".*

2. The petitioners are autorickshaw drivers. They were aggrieved by the fact that a penalty of Rs.2,000/- was being collected from autorickshaws, the meter of which had not been presented for verification in terms of the provisions contained in the Legal Metrology Act and Rules, and claiming the benefit of Ext.P3, which is stated to be a press release issued by the Government.

3. The learned Senior Government Pleader would submit that the petitioners had relied on Ext.P7 interim order in W.P(C)No.31680/2014 to contend that the legality of

Ext.P1 circular was under challenge before this Court in W.P(C)No.31680/2014. It is submitted that W.P(C) No.31680/2014 was dismissed by this Court and against which W.A.No.683/2016 was filed. It is submitted that a Division Bench of this Court refused to interfere with Ext.P1 circular and therefore the petitioners cannot be granted any relief in this writ petition.

4. Having considered the contentions raised and having perused the pleadings in the writ petition, I am of the view that in the light of the judgment of the Division Bench in W.A.No.683/2016, the petitioners are not entitled to any relief in the present writ petition. In paragraph No.15 of the present writ petition it is stated as follows:

> *15. It is submitted that Rs.2000/- as penalty is imposing on the basis of Ext. P1 Circular. The Hon'ble High Court was in earlier proceedings was pleased to stay the operation of Ext. P1 Circular. The true copy of the interim order passed in IA. No. 8675/*15 *in W.P.(C) No. 31680/14 dt. 29/6/2015 is produced herewith and marked as* ***Exhibit -P6****. The true copy of the interim order passed in W.P.(C) No. 31680/14 dt. 26/11/2014 is produced herewith and marked as* ***Exhibit P7****.*

It is seen from the judgment of the Division Bench in

W.A.No.683/2016 that W.P(C)No.31680/2014 was dismissed by this Court and the Division Bench after referring to the provisions of Ext.P1 circular held as follows:

> *"2. The main contention urged on behalf of the petitioners was that the circular is against the statutory provisions.*
>
> *3. The learned Single Judge having gone through the entire statutory provisions and the circular formed an opinion that the circular is not against the statute and had been issued only for a proper understanding of the statutory provisions. Accordingly, the writ petition has been dismissed.*
>
> *4. Impugning the aforesaid judgment, the learned counsel for the appellants submits that when an additional fee is being charged in terms of Rule 16(3), there cannot be prosecution nor can there be any other action taken for the delay in presenting the weight or measure for re-verification.*
>
> *5. On a perusal of the circular which is extracted above itself indicates that it is in the form of a clarification issued to the concerned officers to take action in accordance with law. If the individual persons are affected by the action taken pursuant to the circular or under the statute, their remedy is to approach the competent legal forum to challenge the same.*
>
> *6. There is no reason why the circular issued for internal purpose should be judicially reviewed by this Court under Article 226 of the Constitution of India. Under such circumstances, we do not find any error in the judgment of the learned Single Judge in dismissing the writ petition".*

In the light of the aforesaid categorical finding by the Division Bench, the reliefs sought for in the writ petition cannot be granted as it is the case of the petitioners that the action complied of was taken on the basis of Ext.P1 circular.

Writ petition fails and it is accordingly dismissed.

**Sd/-**
**GOPINATH P.**
**JUDGE**

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**APPENDIX OF WP(C) 26002/2015**

**PETITIONERS' EXHIBITS**

**EXHIBIT P1:-** **THE TRUE COPY OF THE CIRCULAR NO 1/2014 ISSUED BY THE 2ND RESPONDENT**

**EXHIBIT P2:-** **THE TRUE COPY OF THE CIRCULAR NO 3/2014 ISSUED BY THE 2ND RESPONDENT**

**EXHIBIT P3:-** **THE TRUE COPY OF THE ONLINE PRESS RELEASES FROM DIRECTORATE, THIRUVANANTHAURAM ON 6/11/2014**

**EXHIBIT P4:-** **THE TRUE COPY OF THE GO (P)NO 74/2014 TRANS DTD 17/10/2014 ISSUED BY THE TRANSPORT (B) DEPARTMENT**

**EXHIBIT P5:-** **THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER IS UNION BEFORE THE IST RESPONDENT**

**EXHIBIT P6:-** **THE TRUE COPY OF THE INTERIM ORDER PASSED IN IA NO 8675/15 IN WP 31680/14 DTD 29/6/2015**

**EXHIBIT P7:-** **THE TRUE COPY OF THE INTERIM ORDER PASSED IN WPC NO 31680/14 DTD 26/11/2014**

**EXHIBIT P8:-** **THE TRUE COPY OF THE CERTIFICATE OF VERIFICATION OF LEGAL METROLOGY OF THE VEHICLE HAVING REG NO KL-13/Y-2070.**

**EXHIBIT P9:-** **THE TRUE COPY OF THE CERTIFICATE OF VERIFICATION OF THE 2ND PETITIONERS VEHICLE HAVING REG NO KL-13/X-5658**

**EXHIBIT P10:-** **THE TRUE COPY OF THE CERTIFICATE OF VERIFICATION OF 3RD PETITIONERS VEHICLE HAVING REG NO KL-13/X-7119**

**EXHIBIT P11:-** **THE TRUE COPY OF THE CERTIFICATE OF VERIFICATION OF 4TH PETITIONERS VEHICLE HAVING REG NO KL-13/Y-1689**

**EXHIBIT P12:-** **THE TRUE COPY OF THE CERTIFICATE OF VERIFICATION OF 5TH PETITIONERS VEHICLE HAVING REG NO KL-13/Y-1515**