

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 15TH DAY OF FEBRUARY 2017/26TH MAGHA, 1938

WP(C).No. 1837 of 2017 (D)

PETITIONER:

N.K.RAJU,
NJALIMAKKAL HOUSE,
KOTHALA PO, PAMPADY,
KOTTAYAM.

BY ADV. SRI.P.DEEPAK

RESPONDENT:

THE REGIONAL TRANSPORT OFFICER,
KOTTAYAM - 686002.

BY SENIOR GOVERNMENT PLEADER SRI.P.M.MANOJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-02-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

mbr/

APPENDIX

PETITIONER(S) ' EXHIBITS:

- EXHIBIT P1: A TRUE COPY OF THE CERTIFICATE OF REGISTRATION
 OF KL.05/ AF 2673.
- EXHIBIT P2: TRUE COPY OF THE FORM 29 NOTICE
 DATED 07.01.2017.
- EXHIBIT P2A: TRUE COPY OF THE FORM 30 REPORT
 DATED 07.01.2017.
- EXHIBIT P3: TRUE COPY OF THE APPLICATION FOR CLEARANCE
 CERTIFICATE DATED 07.01.2017.
- EXHIBIT P4: TRUE COPY OF THE COMMUNICATION OF THE RESPONDENT
 DATED 10.01.2017.
- EXHIBIT P5: TRUE COPY OF THE REGULAR PERMIT ISSUED TO
 KL-05/AF 2673.
- EXHIBIT P6: TRUE COPY OF THE COMMUNICATION DATED 24.06.2016
 OF THE RTO IDUKKI.
- EXHIBIT P7: TRUE COPY OF THE APPLICATION FOR RENEWAL OF
 PERMIT DATED 03.08.2016.
- EXHIBIT P7A: TRUE COPY OF THE APPLICATION FOR CONVERSION OF
 SERVICE DATED 03.08.2016.

RESPONDENTS' EXHIBITS & ANNEXURE:

- ANNEXURE I : A TRUE COPY OF THE PROCEEDINGS HAVING ORDER
 NO.CS/1078/2015/ID DATED 12.3.2015.

//TRUE COPY//

P.S. TO JUDGE

mbr/

P.B. SURESH KUMAR, J.

W.P.(C). No.1837 of 2017

Dated this the 15th day of February, 2017

JUDGMENT

The petitioner was holding a regular permit to operate a stage carriage service. The permit was valid till 03.03.2012. The permit, admittedly, was not renewed thereafter. Ext.P7 application for renewal of the permit and Ext.P7(a) application for conversion of the service as a Limited Stop Ordinary Service, are pending consideration before the primary Regional Transport Authority viz, Regional Transport Authority, Idukki. In the meanwhile, the petitioner wanted to sell the vehicle covered by the permit and submitted Exts.P2 and P2(a) statutory applications for the said purpose before the respondent. On the said applications, the petitioner has

been issued Ext.P4 communication by the respondent directing the petitioner to produce the permit-less certificate from RTO, Idukki as also the clearance certificate from the Welfare Fund Board. The petitioner has no objection in complying with the direction in Ext.P4 as regards the clearance certificate sought from the Welfare Fund Board. His grievance in the writ petition concerns the direction in Ext.P4 to produce the permit-less certificate from RTO, Idukki. The petitioner, therefore, challenges Ext.P4 communication in this proceedings to the extent it directs him to produce the permit-less certificate of the vehicle.

2. Heard the learned counsel for the petitioner as also the learned Government Pleader.

3. The learned Government Pleader pointed out that the permit-less certificate is insisted since the application for renewal of the permit in respect of the vehicle is pending. In other words, the stand of the

respondent is that the petitioner is not entitled to transfer the vehicle during the pendency of the application for renewal of the permit. No provision in the Motor Vehicles Act empowering the Registering Authority to insist a permit-less certificate of the vehicle from the Regional Transport Authority concerned for effecting transfer in respect of a vehicle is brought to the notice of this Court. Likewise, no provision interdicting the sale of the vehicle during the pendency of an application for renewal of the permit issued in respect of the same is also brought to the notice of this Court. The question whether the petitioner is entitled to pursue the application for renewal without there being a vehicle is a matter for the Regional Transport Authority concerned to consider at the relevant point of time. So long as there is no legal impediment for the petitioner to sell his vehicle, the impugned order, to the extent it directs the petitioner to produce the permit-less certificate, is unsustainable. In the

circumstances, the writ petition is allowed and the interim order passed by this Court on 20.01.2017 directing consideration of Exts.P2 and P2(a) applications without insisting the permit-less certificate is made absolute.

Sd/-

P.B. SURESH KUMAR
JUDGE

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