

ഡി3/2813/എസ്.റ്റി.എ/2013

ട്രാൻസ്ഫോർട്ട് കമ്മീഷണറേറ്റ്
ട്രാൻസ് ട്രവേഴ്സ് വഴുതക്കാട്
തിരുവനന്തപുരം-695014
തീയതി-09/12/2014

പ്രേഷിതൻ

ട്രാൻസ്ഫോർട്ട് കമ്മീഷണർ
തിരുവനന്തപുരം

സ്വീകർത്താവ്

എല്ലാ ഡെപ്യൂട്ടി ട്രാൻസ്ഫോർട്ട് കമ്മീഷണർമാർക്കും
എല്ലാ റീജിയണൽ ട്രാൻസ്ഫോർട്ട് ഓഫീസർമാർക്കും

സർ

വിഷയം: - മോട്ടോർ വാഹന വകുപ്പ്- ഡി3 സമയ പരിഷ്കാരം നടപ്പിലാക്കുന്നത്
സംബന്ധിച്ച്

സൂചന: -WP© No 2844/2013 നമ്പരായ 21/11/2014ലെ ജഡ്ജ്മെന്റ്

സൂചനയിലേക്ക് താങ്കളുടെ ശ്രദ്ധ ക്ഷണിക്കുന്നു.ഡി3 875/എസ്.റ്റി.എ/2005 നമ്പരായ 08/11/2011ലെ ഉത്തരവ് നടപ്പിലാക്കുവാൻ 01/01/2013 വരെ സമയ പരിധി നൽകിയിരുന്നു. പ്രസ്തുത സമയ പരിധിക്കുള്ളിൽ സമയപരിഷ്കാരം നടപ്പിലാക്കാത്തതിനാൽ 25/02/2014വരെ സമയം ദീർഘിപ്പിച്ചു നൽകിയിട്ടുള്ളതാണ്. ഡി3 സമയ പരിഷ്കാരം നടപ്പിലാക്കിയിട്ടുണ്ടോ എന്ന വിവരം 7 ദിവസത്തിനകം ഈ ഓഫീസിൽ റിപ്പോർട്ട് സമർപ്പിക്കുവാൻ താല്പര്യപ്പെടുന്നു. WP© No 2844/2013 നമ്പരായ 21/11/2014ലെ ജഡ്ജ്മെന്റിന്റെ പകർപ്പ് അനന്തര നടപടി സ്വീകരിക്കുന്നതിലേക്കായി നൽകുന്നു.

വിശ്വസ്തയോടെ



ജോയിന്റ് ട്രാൻസ്ഫോർട്ട് കമ്മീഷണർ &
സെക്രട്ടറി എസ്.റ്റി.എ
ട്രാൻസ്ഫോർട്ട് കമ്മീഷണർക്കു വേണ്ടി

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D3
Put up in file
2/12 JTC

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. VINOD CHANDRAN

FRIDAY, THE 21ST DAY OF NOVEMBER 2014/30TH KARTHIKA, 1936

WP(C).No. 2844 of 2013 (E)

PETITIONER(S):

1. VATAKARA TALUK PRIVATE BUS OPERATORS' ASSOCIATION,
NEAR NEW BUS STAND, VATAKARA, TALUK UNIT OF
KERALA STATE PRIVATE BUS OPERATORS' FEDERATION
REGISTERED UNDER SOCIETIES ACT,
REG. NO. TCR-161/84/8-84,
REPRESENTED BY ITS GENERAL SECRETARY,
K.K. GOPALAN NAMBIAR, AGED 65 YEARS,
S/O. CHANDU KURUP.
2. ABDULLA M.T., MOTTAM THARAMEL HOUSE,
VILLYAPPALLY P.O., VATAKARA.

BY SRI.M.RAMESH CHANDER, SENIOR ADVOCATE.
ADV. SRI.ANEESH JOSEPH.

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY TO
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM - 695 001.
2. THE TRANSPORT COMMISSIONER,
THIRUVANANTHAPURAM - 695 001.
3. THE STATE TRANSPORT AUTHORITY,
THIRUVANANTHAPURAM - 695 001,
REPRESENTED BY ITS SECRETARY.
4. THE REGIONAL TRANSPORT AUTHORITY,
VATAKARA, REPRESENTED BY ITS SECRETARY.

R1 TO R4 BY GOVT. PLEADER MR.R. RANJITH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-11-2014, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

K. VINOD CHANDRAN, J.

W.P.(C) No.2844 of 2013

Dated this the 21st day of November, 2014

J U D G M E N T

The petitioners are respectively an association and a stage carriage permit holder. The petitioners are aggrieved with the manner, in which Ext.P1 Circular No.D3/875/STA/2005 (D3) dated 08.11.2011 is being implemented. D3 circular was issued in pursuance to an order of this Court, which directed that the running time for stage carriages, operating in different cities and towns ought to be fixed, taking into consideration, inter alia, the width of road, the density of population, the intensity of vehicular traffic and so on and so forth. D3 circular comprehensively and extensively dealt with the same, providing different timings for different categories of roads as also different categories of services permitted to be operated as stage carriages. Implementation is the issue dealt with in the aforesaid case.

2. The timings of various stage carriages operating in

the regular and temporary permits were being fixed as per an earlier schedule. The said timings have been settled in timing conferences convened by the Secretaries of the respective RTA's as per the Motor Vehicles Act, 1988. A revision would also have to be done in a like manner, with notice to the affected parties as also the rival operators. The time schedules being different in the earlier settlement and the one that is proposed now, there can be no piece-meal settlement of timings to individual operators. Prejudice would be caused if such settlement is resorted to insofar as such implementation resulting in those stage carriages, settled with the timings as per D3 circular lagging behind their rival operators, whose timings have been settled as per the earlier schedule.

3. The State Transport authority has also alertly taken note of such difficulties and has stated so, with respect to implementation of the circular.

"The time schedules in respect of each of the existing services should be modified allotting running time at the above rate and placed before the Regional Transport Authority after publishing the same on the

notice board of the Regional Transport Authority and communicating a copy to the permit holder on or before a date to be fixed by the State Transport Authority and the same should be given effect with effect from a date applicable to the whole of the State to be fixed by the STA."

4. In such circumstance, what is intended by the STA is that the Secretaries should resort to settlement of timings as per D3 Circular which in effect means revising that settled earlier. On all the stage carriages operating within the jurisdiction of an RTA being settled with such timings, the same would be placed before the RTA. The RTA would, then, intimate the STA about such settlement of timings; within their jurisdiction. The Regional Transport Authorities all over the State are expected to do that and on the same being complied with by all the RTAs, within the State; the STA would specify a date on which such timings would come into force within the State of Kerala. This would ensure uniform implementation of timings all over the State and none could allege discrimination or arbitrariness .

5. Later, however, the Transport Commissioner came out with Ext.P2 wherein it was indicated that as per the decision of the STA, running time for all fresh permits shall be on the time prescribed as per D3 circular. This Court does not find any support for such decision to settle timings with respect to fresh permits and variations as per D3 circular. That would be discriminatory since the stage carriages would be operating in different schedules, between points in the very same route. The general purport of the Circular would also, not commend such a settlement, in isolation, to certain operators and continuance of the earlier schedules for others. There can also be no unilateral fixation of timings when revision as per D3 is resorted to, since a settlement can be made or revised only in accordance with the Act and the Rules. In fact, such a measure would go against the implementation specifically prescribed by D3 circular as detailed herein above.

6. A date was also fixed for implementation of the timings as per the D3 circular with respect to old permits; i.e, with effect from 1.1.2013. Obviously, the same has not been done, since even today, this Court comes across various writ

petitions, where the settlement of timings as per D3, without notice, is challenged before this Court. The fresh permits issued as also any variation granted in the old permits are also seen to be settled with timings, as per D3 Circular.

7. It is not clear as to whether the date for implementation of D3 has been specified by the STA till date. The Circular having been issued by the STA neither can any deviation be made therefrom by the Transport Commissioner, nor can such officer prescribe the date for implementation, which too is in the realm of the STA. The STA also has to collect information from the respective RTAs from all over the State, to so specify the date, for implementation of D3 circular. In such circumstance, the STA shall take steps to ensure that timings are settled as per D3 Circular, by issuing suitable direction to the RTAs so to do within a time frame. The RTAs shall also expedite such settlement of timings as directed herein, without, however, implementing them otherwise than on the date specified by the STA. However, it is specifically observed that this judgment has merely reiterated what has been stated in D3 Circular and this does not confer any right on any of the stage

carriage operators to seek for revision of timings settled as per D3 circular and seek settlement as per the earlier schedule; otherwise on facts which shall be required to be individually agitated.

Writ petition is disposed of, with the above directions.

jma

Sd/-
K. VINOD CHANDRAN,
Judge

//true copy//


P.A to Judge

WP(C).No. 2844 of 2013 (E)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE PROCEEDINGS OF THE STATE TRANSPORT
AUTHORITY NO.D3/875/STA/2005 DATED 08/11/2011.
- EXT.P2 COPY OF THE SAID CIRCULAR ISSUED BY THE 2ND RESPONDENT
DATED 04/11/2011.
- EXT.P3 COPY OF THE DECISION OF THE RTA VATAKARA HELD ON
20/12/2012.
- EXT.P4 COPY OF THE COMMUNICATION ON 10/01/2013 BY THE
1ST PETITIONER ALONG WITH CERTAIN DOCUMENTS TO
THE 4TH RESPONDENT.

RESPONDENT'S EXHIBITS:-

- EXT.R3A (R3(a)1- R3(a)15): COPY OF THE REPORT SUBMITTED BY THE
EXPERT COMMITTEE.

//TRUE COPY//


P.A. TO JUDGE

rs.

