

Kerala High Court

P.P.Dinesan vs State Of Kerala on 28 November, 2007

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C) No. 27042 of 2007(T)

1. P.P.DINESAN, S/O.GOVINDAN, AGED 47,
... Petitioner

Vs

1. STATE OF KERALA,
... Respondent

2. THE COMMISSIONER AND SECRETARY TO

3. THE REGIONAL TRANSPORT AUTHORITY,

4. THE SECRETARY,

5. THE DISTRICT TRANSPORT OFFICER,

6. THE REGIONAL TRANSPORT AUTHORITY,

7. THE SECRETARY,

8. THE DISTRICT TRANSPORT OFFICER,

For Petitioner :SRI.MILLU DANDAPANI

For Respondent :SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

The Hon'ble MR. Justice ANTONY DOMINIC

Dated :28/11/2007

O R D E R

ANTONY DOMINIC, J.

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W.P.(C) NO.27042 OF 2007 T

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Dated this the 28th day of November, 2007

J U D G M E N T

Ext.P2 is a permit that was granted to the petitioner for the sector Parassinikadavu-Ernakulam and valid till 14/7/06. It is seen that the Kannur, RTA had rejected concurrence and that decision of the RTA was called in question before the STAT in MVARP No.400/06, which was disposed of by Ext.P5. In Ext.P5, the STAT has proceeded on the footing that Ext.P2 permit was valid upto 31/8/05 and on that basis concluded that the petitioner was not eligible for the saving clause provided in Ext.P6 notification dated 9/5/06. This obviously is erroneous in as much as Ext.P2 is valid till 14/7/2006. If so, the petitioner was eligible for the protection provided for in Ext.P6 notification. For that reason, Ext.P5 order and the decision of the RTA deserves to be set aside and I do so.

2. The next question is regarding the rejection of renewal, which was a subject matter of MVARP 282/07. That decision of the RTA, Vadakara in this case was also confirmed by WPC 27042/07 the STAT in Ext.P12 judgment, following the definition in Rule 2 (oa) of K.M.V Rules.

3. Learned senior counsel invites my attention to Ext.P16 proceedings of the State Transport Authority meeting held on 9/10/2007, wherein STA has decided to move the Government for amending the said rule to save the existing LSOS services. It was also held that the RTAs will permit the existing operators to continue their LSOS service on the strength of regular permit or temporary permit for a period of four months on expiry of regular permits. Petitioner claims that they are entitled to the benefit of Ext.P16 as well. Since RTA and STAT has rested its conclusion entirely on Rule 2(oa) of K.M.V Rules, Ext.P12 also requires to be re-examined in the light of Ext.P16. Therefore, to enable the RTA to do so, I quash to reconsider the decision of RTA and Ext.P12 of the STAT as well.

4. As a necessary consequence of setting aside Exts P5 and P12, the matter now has to go back to the RTA Kannur and Vatakara. The concerned RTAs shall reconsider the matter in the light of the observations herein above contained and take fresh WPC 27042/07 decision in the matter.

5. Petitioner submits that Ext.P14, temporary permit application filed by the petitioner is pending. If such an application is pending, RTA shall consider this and dispose of the same as expeditiously as possible, at any rate within four weeks of receipt of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE Rp