

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

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI**

**FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937**

**WP(C).No. 15872 of 2015 (H)**  
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**PETITIONER :**  
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**SAINALABDHEEN, AGED 45 YEARS, S.R.COTTAGE,  
CHADAYAMANGALAM, KOTTARAKKARA, KOLLAM.**

**BY ADV. SRI.O.D.SIVADAS**

**RESPONDENT :**  
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**THE SECRETARY  
REGIONAL TRANSPORT AUTHORITY, KOLLAM-691001.**

**BY GOVERNMENT PLEADER SMT. K.A. SANJEETHA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**bp**

WP(C).No. 15872 of 2015 (H)

**APPENDIX**

**PETITIONER'S EXHIBITS :**

**P1: COPY OF THE APPLICATION FOR REPLACEMENT WITH CHELAN.**

**P2: COPY OF THE JUDGMENT IN WPC NO. 10502 OF 2014 DT 8/4/2014 PASSED BY THIS HON'BLE COURT.**

**RESPONDENT'S EXHIBITS : NIL.**

**//TRUE COPY//**

**P.A. TO JUDGE**

**bp**

**A.V. RAMAKRISHNA PILLAI, J.**

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**W.P.(C) No. 15872 of 2015**  
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**Dated this the 29<sup>th</sup> day of May, 2015**

**J U D G M E N T**

The limited prayer in this writ petition is for a direction to the respondent to consider and dispose of Ext.P1, which was submitted by the petitioner.

2. The petitioner is a stage carriage operator and the permit belonging to the petitioner is in respect of stage carriage No.KL-2/AA 333 on the route between Anchal and Kadakkal. He alleges that on account of the bad condition of the vehicle, he applied for clearance certificate by retaining the vehicle under suspended animation; and accordingly, clearance certificate was granted. In order to resume service, the petitioner submitted Ext.P1 application for replacement. The petitioner points out that the incoming vehicle is a 2004 model vehicle, on account of which the respondent has not granted replacement. According to the petitioner, the

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make and model of the vehicle is not a sufficient reason to deny replacement. As the respondent is reluctant to consider the application on the ground that the incoming vehicle is older than the outgoing vehicle, the petitioner prays for a direction to the respondent to consider his application in the light of Ext.P2 judgment.

3. Heard the learned counsel for the petitioner as well as the learned Government Pleader in the matter.

4. The objection raised by the respondent is that the incoming vehicle is not a subsequent model than the outgoing vehicle. The only material question to be considered is regarding the viability of the vehicle concerned. The issue is no longer res integra and is covered by the judgments of this Court, wherein this Court has declared that the authority is bound to look into the viability of the vehicle proposed to operate on the route in question and not its model.

5. Considering the matters now placed on board, this Court is of the view that the respondent can be

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directed to consider and dispose of Ext.P1 application submitted by the petitioner.

Therefore, this writ petition is disposed of directing the respondent to consider Ext.P1 application submitted by the petitioner in the light of Ext.P2 judgment, after affording the petitioner an opportunity of being heard. The entire exercise shall be completed within a period of three weeks from the date of receipt of a copy of this judgment.

To facilitate an early action, it shall be open to the petitioner to produce a copy of the writ petition and a copy of this judgment before the respondent at the earliest.

Sd/-  
**A.V. RAMAKRISHNA PILLAI**  
**JUDGE**

bka/-