



2024:KER:87312

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

WEDNESDAY, THE 20<sup>TH</sup> DAY OF NOVEMBER 2024/29TH KARTHIKA, 1946

W.A. NO. 1653 OF 2024

AGAINST THE ORDER/JUDGMENT DATED 16.10.2024 IN WP(C)

NO.35827 OF 2024 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

NOUFAL PANDIPADAM, S/O. ABDU RAZAQ P,  
AGED 38 YEARS, KAVALATH HOUSE, KARUVANTHIRUTHY,  
KOZHIKODE DISTRICT, PIN - 673631.

BY ADVS.  
G.HARIHARAN  
AFNA V.P.  
B.R.SINDU  
K.S.SMITHA  
PRAVEEN.H.  
V.ROHITH  
V.R.SANJEEV KUMAR

RESPONDENTS/RESPONDENTS:

1 THE SECRETARY,  
REGIONAL TRANSPORT AUTHORITY,GROUND FLOOR CIVIL  
STATION, WAYANAD ROAD, ERANHIPPALAM, KOZHIKODE  
DISTRICT, PIN - 673020.



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2 REGIONAL TRANSPORT AUTHORITY,  
GROUND FLOOR CIVIL STATION, WAYANAD ROAD,  
ERANHIPPALAM, KOZHIKODE DISTRICT REPRESENTED BY  
ITS SECRETARY, PIN - 673020.

SRI. B. UNNIKRISHNA KAIMAL, SR. GP

THIS WRIT APPEAL HAVING COME UP FOR FINAL HEARING  
ON 22.10.2024, THE COURT ON 20.11.2024 DELIVERED THE  
FOLLOWING:



**ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.**

**W.A.No.1653 of 2024**

**Dated this the 20<sup>th</sup> day of November, 2024**

**JUDGMENT**

P.G.Ajithkumar, J.

The petitioner in W.P.(C) No.35827 of 2024 is the appellant. The following reliefs were claimed in the writ petition:

- “(i) Issue a writ of mandamus or any other appropriate writ or order restraining the 1<sup>st</sup> respondent from revising the existing timings of the petitioner's service on the strength of Ext.P6 notice if there are no orders from any competent court for revising the timings of the petitioner's service;
- (ii) Issue a writ of mandamus or any other appropriate writ or order restraining the 1<sup>st</sup> respondent from interfering with the existing timing schedule of the petitioner's service against the provisions stipulated under Section 212 of the Kerala Motor Vehicles Rules.”

2. The learned Single Judge as per the judgment dated 16.10.2024 disposed of the said writ petition in the following terms:

“The present writ petition under Article 226 of the Constitution of India has been filed impugning Ext.P6 notice issued by the respondents for holding timing



conference and taking up the application for violation of permit/timing for the operation of stage carriages.

2. The learned counsel for the petitioner submits that the timing for stage carriage operation having registration No. KL 55 3319 was settled in compliance with the judgment passed by this Court on 05.06.2024 in W.P.(C) No.19079/2024, and therefore, there is no revision of timing takes place.

3. The timing conference has been scheduled on 18.10.2024, and no decision has yet to be taken. If the petitioner has any grievance against the proposed timing for the operation of stage carriage KL 55 3319, the petitioner may file his objection, which shall be considered by the 1st respondent Authority along with any other objections and take decision in accordance with law.

With the above directions, the present writ petition stands disposed of.”

3. Heard the learned counsel for the appellant and the Senior Government Pleader.

4. The learned counsel for the appellant would submit that the learned Single Judge without affording an opportunity of being heard disposed of the writ petition. Had the appellant been given an opportunity to substantiate his plea, such a judgment would not have been rendered. It is submitted that a holder of permit, has no right to challenge



the appellant's permit or to question the timings. Going by Rule 212 of the Kerala Motor Vehicle Rules, 1989, no rival bus operators have a right to question the schedule of timing in respect of the stage carriage of the appellant. Even when changes are ordered in the timings of a service, that would never affect a permit which is already issued. In that view of the matter, it is urged by the learned counsel for the appellant that the learned Single Judge ought to have restrained the timing conference, instead of given a direction to consider the objection that may be put in by the appellant. Further submission is that when statutory remedy of revision under Section 90 of the Motor Vehicles Act, 1988 was available to the aggrieved persons, Ext.P6 notice should have been held illegal.

5. A timing conference was scheduled for 18.10.2024. What the learned Single Judge did is only giving a direction to the 1<sup>st</sup> respondent to consider the objection that may be put in by the appellant along with the objections submitted by others in the timing conference.



6. The case of the appellant is that having settled timing for his stage carriage as per Ext.P4, there was no reason or rhyme for the 1<sup>st</sup> respondent to consider the objection of others, who are existing operators. We are unable to accept the said contention readily. The 1<sup>st</sup> respondent is empowered under Rule 212 of the Kerala Motor Vehicles Rules to prescribe schedule of timing for each stage carriage and power to bring about change to the schedule of timing comes within that fold. Hence, the timing conference scheduled by the 1<sup>st</sup> respondent cannot be said to be without any authority. Considering the relief granted, we find no justification to interfere with the impugned judgment.

7. Certainly, if the 1<sup>st</sup> respondent decides to convene a timing conference, such conference shall be strictly in accordance with the provisions of Rule 212 of the Kerala Motor Vehicles Rules. The 1<sup>st</sup> respondent shall also follow the law laid down by this Court in **Ratheesh M.C. v. Secretary, Regional Transport Authority, Thrissur [2015 (1) KLT 69]**.



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This writ appeal is disposed of with the aforementioned direction.

Sd/-

**ANIL K. NARENDRAN, JUDGE**

Sd/-

**P.G. AJITHKUMAR, JUDGE**

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