

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

TUESDAY, THE 31ST DAY OF MAY 2022 / 10TH JYAISHTA, 1944

WP(C) NO. 13238 OF 2022

PETITIONERS:

- 1 ABOOBACKER K.A.,
KAROTHUKUDI, MUDICKAL P.O., PERUMBAVOOR,
MOLUDUPURA, ERNAKULAM-683 547.
- 2 ASAD.E.M.,
ELAVUMKUDY HOUSE, MARAMPILLY P.O.,
PERUMBAVOOR, ERNAKULAM, PIN-683 105.
- 3 RAJESH.P.R.,
PEEDIKAKKUDIYIL, KEEZHILLAM P.O.,
PERUMBAVOOR, ERNAKULAM, PIN-683 541.
- 4 VARGHESE P.A. @ ANTONY VARGHESE,
POTHEN HOUSE, OKKAL P.O.,
PERUMBAVOOR, ERNAKULAM-683 550.
- 5 SIDHIKK,
THEKEVADAYATH, PONASSERY P.O.,
PERUMBAVOOR, ERNAKULAM-683 547.
- 6 NAJEEB.V.S.,
VELLAKUDI, ALLAPFA P.O.,
PERUMBAVOOR, ERNAKULAM-683 536.
- 7 GINU @ THOMAS,
MELETHADAM, PEERUMBAVOOR P.O.,
PERUMBAVOOR, ERNAKULAM-683 542.
- 8 RAHEEM,
KIDANGASSERY HOUSE, VAZHAKKULAM P.O.,
PERUMBAVOOR, ERNAKULAM-683 105.
- 9 SHAMEER ROSHAN,
KALLINGAL HOUSE, MUDICKAL P.O.,
PERUMBAVOOR, ERNAKULAM-683 547.

WP(C) NO. 13238 OF 2022

2

- 10 MANAF.T.S.,
THURUTHUMMEL HOUSE, PERUMBAVOOR P.O.,
PARAPPURAM, ERNAKULAM-683 547.
- 11 ABDUL KAREEM.P.S.,
PUTHENVEETIL HOUSE, MUDICKAL P.O.,
PERUMBAVOOR, ERNAKULAM-683 547.
- 12 MAHINKUTTY,
VATTATHARA HOUSE, MARAMPILLY P.O.,
PERUMBAVOOR, ERNAKULAM, PIN-683 105.
- 13 K.M.UMMER,
KOTTAPURATH HOUSE, SREEMOOLANAGARAM P.O.,
ALUVA, ERNAKULAM-683 105.
- 14 NAJEEB.M.A.,
PANDIYAMOODU HOUSE, PERUMBAVOOR P.O.,
PERUMBAVOOR, ERNAKULAM-683 542.
- 15 NASEEMA.K.A.,
ALANGAYI HOUSE, ALLAPRA P.O.,
PERUMBAVOOR, ERNAKULAM-683 556.
- 16 DILSHAD ABDUL MAJEED,
CHEELAKKATTUPARAMBIL HOUSE, PONJASSERY P.O.,
PERUMBAVOOR, ERNAKULAM-683 547.
- 17 LATHEEF,
CHERUVALLIKUDY HOUSE, RAYONPURAM P.O.,
PERUMBAVOOR, ERNAKULAM, PIN-683 543.
- 18 SUBAIR.M.A.,
MUNDACKAL HOUSE, MUDICKAL P.O.,
PERUMBAVOOR, ERNAKULAM-683 547.

BY ADVS.
P.M.SANEER
P.A.SHAJI SAMAD

WP(C) NO. 13238 OF 2022

3

RESPONDENTS:

- 1 JOINT REGIONAL TRANSPORT OFFICER,
OFFICE OF THE JOINT REGIONAL TRANSPORT OFFICER,
IRINGOLE P.O., PERUMBAVOOR,
ERNAKULAM DISTRICT, PIN-683 548.

- 2 STATION HOUSE OFFICER,
PERUMBAVOOR POLICE STATION, PERUMBAVOOR-683 542.

SR GP SRI SUNIL V K

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.05.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C) NO. 13238 OF 2022

4

JUDGMENT

Petitioners, 18 in number, are the owners of the passenger autorikshaws classified as three wheeled vehicle. For plying as a taxi, had obtained the permits issued by the Regional Transport Authority, Ext.P1 whereby certain restrictions for not plying the vehicles to pick up passenger or park within the Kochi City were imposed. Petitioners moved an application for variation of the terms and conditions of the permit on the ground that there are no designated parking places for parking the autorikshaws so that the passengers can use the facility of the autorikshaws and requested the authorities to change their parking stand. Aforementioned application has been rejected by the Joint Regional Transport Officer, Perumbavoor vide order dated 24.11.2021, Ext.P4 on the ground that they had received twenty two applications from the owners for variation of the permit to allow any stand within the Perumbavoor Municipality as parking place. On enquiry, it was found that Perumbavoor Municipal roads are congested and numerous vehicles have been allowed to park and to ply autorikshaws inside the municipality. Perumbavoor Municipality

WP(C) NO. 13238 OF 2022

5

has taken a decision No.27 in the meeting dated 27.11.2017 that no new permits are allowed for autorikshaws inside the Perumbavoor Municipality.

2. Learned counsel for the petitioner relies upon the judgment Ext.P7 of 2015 that such condition of parking the autorikshaw at designated parking places has been negated on the ground that no such facility was provided. I am afraid the aforementioned arguments would not be tenable for the reason that the judgment is of 2015 and the impugned order in the instant case is of 2021 based upon the decision of the Perumbavoor Municipality dated 27.11.2017 vide decision number 27 which has not been challenged in this Court. Reliance has also been laid to the information received under the RTI vide Ext.P6, wherein a specific question raised in the application seeking information from the Revenue Officer vide communication dated 3.08.2015 replying that municipality had not approved or allotted any stands within the boundaries of the Perumbavoor. The decision of the Municipality has not been assailed in the present writ petition. The permit is of 2014, therefore, there cannot be

WP(C) NO. 13238 OF 2022

6

any change of the condition. An attempt has been made to overcome the decision of the municipality by submitting an application for allocation of different stand with a purpose to enter the municipality of Perumbavoor and ply the vehicle which would increase the congestion in the area and truncate the mobility of the vehicles already permitted and being plied. Thus, I am of the view that until and unless the decision of the municipality is not being challenged, the application has rightly been rejected. The writ petition sans merits accordingly dismissed.

3. While dealing with the writ petition this Court has come across that many autorikshaws being plied in Cochin/Ernakulam and other districts do not follow the traffic rules. They adopt the rule of convenience and not the rules by stopping at their convenience for picking up the passengers midway of the journey and beyond the capacity granted in the permit which results into risk of accident. Not only this, even the transport vehicles like passenger private transport buses plied in the City of Cochin/Ernakulam also perpetually uses the horns in overtaking and while plying on the road. Most of the vehicles are overtaking

WP(C) NO. 13238 OF 2022

7

each other or the other private vehicles risking the life of the passengers on the road and other passengers travelling in other vehicles. Apparently, the buses also looked to be very old. Though the Motor Vehicle Act does not permit the vehicle to be run beyond 15 years there may be a cases where fitness certificates are being issued by the Regional Transport Authority. There has to be a time-line as to till what time the fitness certificate can be issued. In other words, whether it can be permitted beyond 15 years by relaxation or granting exemptions.

Accordingly, there shall be directions to the Police Commissioner of Kochi/Ernakulam as well as the Regional Transport Authority, Cochin/Ernakulam to immediately issue an order of prohibiting the private transport buses not to use horn on city and ply on extreme left side of the road without overtaking each other or other private vehicles. This direction shall also be applicable to the autorikshaws and shall ensure that the registration or issuance of the autorikshaws do not increase per capita population of Kochi/Ernakulam and to prevent further congestion of the road as the width of the road owing to the

WP(C) NO. 13238 OF 2022

8

paucity of the place is not conducive for plying transport vehicles in large number. They should also issue directions to fix the speed limit of the aforementioned private buses and autorikshaws and also issue directions for fixing a Governor on the speed so that any driver who intends to increase the speed is prevented to do so. Let this order be communicated through the Police Commissioner, Kochi and Regional Transport Officer for immediate compliance through Advocate General of the Kerala.

Sd/-

AMIT RAWAL

JUDGE

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WP(C) NO. 13238 OF 2022

9

APPENDIX OF WP(C) 13238/2022

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE CONTRACT CARRIAGE
AUTORICKSHAW PERMIT ISSUED TO THE
PETITIONERS 1, 2, 5, 6, 9, 11, 14, 15.
- Exhibit P2 TRUE COPY OF JUDGMENT IN WPC NO.8120/2015
DATED 26.06.2015 OF THIS HONOURBLE COURT.
- Exhibit P3 TRUE COPY OF THE APPLICATION FOR
VARIATION OF PERMIT SUBMITTED BY THE 1ST
PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P3 A TRUE COPY OF THE APPLICATION FOR
VARIATION OF PERMIT SUBMITTED BY THE 2ND
PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P3 B TRUE COPY OF THE APPLICATION FOR
VARIATION OF PERMIT SUBMITTED BY THE 3RD
PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P3 C TRUE COPY OF THE APPLICATION FOR
VARIATION OF PERMIT SUBMITTED BY THE 4TH
PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P3 D TRUE COPY OF THE APPLICATION FOR
VARIATION OF PERMIT SUBMITTED BY THE 5TH
PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P3E TRUE COPY OF THE APPLICATION FOR
VARIATION OF PERMIT SUBMITTED BY THE 6TH
PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P3F TRUE COPY OF THE APPLICATION FOR
VARIATION OF PERMIT SUBMITTED BY THE 7TH
PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P3G TRUE COPY OF THE APPLICATION FOR
VARIATION OF PERMIT SUBMITTED BY THE 8TH

PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3H TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 9TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3 I TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 10TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3 J TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 11TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3 K TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 12TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3L TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 13TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3 M TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 14TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3 N TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 15TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3 O TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 16TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3 P TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 17TH PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P3 Q TRUE COPY OF THE APPLICATION FOR VARIATION OF PERMIT SUBMITTED BY THE 18TH PETITIONER BEFORE THE 1ST RESPONDENT.

WP(C) NO. 13238 OF 2022

11

- Exhibit P4 TRUE COPY OF THE ORDER
NO.R7/1645/2021/EMP DATED 07.01.2022
(WRONGLY DATE SHOWN AS 24.11.2021 ISSUED
BY THE 1ST RESPONDENT).
- Exhibit P5 TRUE COPY OF THE RTI APPLICATION DTED
24.07.2015 SUBMITTED BY ONE MR.ALIYAR.
- Exhibit P6 TRUE COPY OF THE REPLY DATED 31.07.2015
GIVEN TO MR.ALIYAR.
- Exhibit P7 TRUE COPY OF THE JUDGMENT DATED
01.06.2016 IN WPC NO.28482/2015 PASSED BY
THIS HONOURABLE COURT.
- Exhibit P8 TRUE COPY OF THE PERMIT ISSUED TO
MR.ALIYAR BY THE 1ST RESPONDENT DATED
17.09.2020.