

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

Monday, the 16th day of January 2023 / 26th Pousha, 1944

WP(C) NO. 31341 OF 2022

PETITIONER:

NITHIN RAMAKRISHNAN, AGED 32 YEARS, S/O DR. N RAMAKRISHNAN, "UDAYAM"
BRINDAVAN COLONY, PALAKKAD- 678001.

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS, TRANSPORT BHAWAN, 1, PARLIAMENT STREET, NEW
DELHI- 110001.

and 11 others

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the concerned among the respondents to open the toll booths on 01.10.2022, 02.10.2022 and on 05.10.2022 and 06.10.2022 due to the event of pooja holidays.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 17.11.2022 and upon hearing the arguments of SMT. ANJALI ANIL A., Advocate for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for R1, R5 and R6, Sri. VIDHAN CHANDRAN, Advocate for the R2 to R4, R7 and R8, GOVERNMENT PLEADER for R9 to R11 and of Sri. MANJUNATH, Advocate for the R12, the court passed the following:

P.T.0

V.G.ARUN, J.

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Dated this the 16th day of January, 2023

ORDER

This writ petition is filed seeking implementation of the following Clause in the guidelines/policy circular No.17.5.82 dated 24.05.2021;

"(iii) *Service Time at Toll Plazas:*

10.6.2 The total number of toll booths and toll lanes shall be such to ensure a service time of not more than 10 seconds per vehicle at peak flow regardless of methodology adopted for fee collection. If at any time, the queue of vehicles in any lane becomes more than 100 metres from the toll booth, then the boom barrier of that lane shall be lifted and the free flow of traffic with no tolling be allowed till the queue comes within 100m. For this purpose, a yellow line at a distance of 100 m from Toll booth be marked in each toll lane. This provision shall be prominently displayed/informed to the users."

2. The petitioner was compelled to seek the relief due to the loss of valuable time at the Paliyekkara Toll Plaza, by reason of the long

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queue of vehicles at all times. The petitioner alleges that the delay on the part of the Concessionaire's staff in collecting the toll and their disputes with the drivers are resulting in the traffic snarls.

3. Learned Counsel for the petitioner submitted that even after introduction of the Electronic Toll Collection (ETC) system, there is disruption in the free flow of traffic. It is contended that in the event of such disruption, the Concessionaire/6th respondent is bound to permit the vehicles to pass through without paying toll until normalcy is restored.

4. The National Highways Authority and the 6th respondent have stoutly denied the allegation and assert that, after the introduction of ETC (Fastag), the movement of traffic through the toll gates has become unhindered and occasional delay happens only when vehicles not fitted with Fastag or without sufficient balance in their

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Fastag attempt to pass through the lanes set up apart for vehicles fitted with Fastag. It is contended that the guidelines relied on by the petitioner is prospective in nature and cannot be made applicable to the Paliyekkara Toll Plaza.

5. While the question whether the guidelines relied on by the petitioner is prospective or not is to be decided later, I am of the considered opinion that the issue canvassed in this writ petition, regarding the loss of time at the Paliyekkara Toll Plaza, call for immediate intervention. The NHAI itself has admitted that 73070 vehicles are crossing the toll plaza on an average daily. Therefore, any delay at any of the toll booths will have a cascading effect on the movement of vehicles, thereby affecting the lives and livelihoods of the commuters, who are made to pay the toll based on the promise to provide hassle free movement of vehicles through good roads.

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Therefore, the Central Government ought to seriously consider whether penalty can be imposed against drivers using the lanes reserved for Fastag vehicles, without fitting Fastag or with expired Fastag. It is also to be considered whether an appropriate amendment could be brought about to Section 201 of the Motor Vehicles Act, 1998, so as to impose penalty on vehicles causing obstruction to free flow of traffic at toll plazas. The State Government and the State Police Chief should consider whether persons causing unnecessary issues and obstructions at toll booths could be proceeded against under Section 120 or any other provision of the Kerala Police Act, 2011. Be that as it may, the National Highways Authority and the Concessionaire are bound to device ways and means to ensure smooth and uninterpreted flow of traffic through the Paliyekkara Toll Plaza with immediate effect, failing which this Court may have to require the

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authorities to give effect to the Guidelines in larger public interest.

The respondents are directed to file counter affidavits detailing the steps taken in terms of the above directions.

Post on 17.02.2023 for further consideration.

Sd/-

V . G . ARUN
JUDGE



Scl/