



2025:KER:30377

WA NO. 23 OF 2022

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

MONDAY, THE 7TH DAY OF APRIL 2025 / 17TH CHAITHRA, 1947

WA NO. 23 OF 2022

AGAINST THE JUDGMENT DATED 15.12.2021 IN WP(C)
NO.26319 OF 2021 OF HIGH COURT OF KERALA

APPELLANT/NOT PARTIES IN THE WP(C) :

- 1 SOUMYA MOL T. M.
AGED 36 YEARS
W/O. VINOD VISWANATHAN, THOTTUPURAM HOUSE,
KUMARAKOM SOUTH P. O., ATTIPPEEDIKA, KOTTAYAM -
686 563.
- 2 N. GOPALAKRISHNAN NAIR
S/O. NARAYANA PILLAI, GOKULAM, MUTTATHIPARAMBU,
CHERTHALA, ALAPPUZHA - 688 524.
- 3 MINIMOL M. K.
W/O. RAJU, THURUTHEL HOUSE, KUMARAKOM NORTH P.
O., KOTTAYAM - 686 566.

BY ADV K.V.GOPINATHAN NAIR

RESPONDENTS/RESPONDENTS 1 & 2 AND PETITIONER IN WP(C) :

- 1 THE REGIONAL TRANSPORT AUTHORITY,
KOTTAYAM, REGIONAL TRANSPORT OFFICE,
COLLECTORATE P.O., KOTTAYAM-686002.
- 2 THE SECRETARY
REGIONAL TRANSPORT AUTHORITY, KOTTAYAM, REGIONAL



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TRANSPORT OFFICE, COLLECTORATE P.O., KOTTAYAM-
686002.

3 K. P. MAHESH
AGED 50 YEARS
MAHESH MANDIRAM, MARIYATHURUTHU P.O., KOTTAYAM,
REPRESENTED BY POWER OF ATTORNEY HOLDER, T.C.
THOMAS, THAKADIYELPARAMBIL HOUSE, CHANNANIKKADU
P.O., KOTTAYAM, PIN - 686028.

OTHER PRESENT:

SR. GP SRI.V K SHAMSUDHEEN FOR R1 & R2
SRI.SAJU J.VALLYARA FOR R3

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
07.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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DR. A.K.JAYASANKARAN NAMBIAR, J. & EASWARAN S., J.

W.A.No.23 of 2022

Dated this the 7th day of April, 2025

J U D G M E N T

Easwaran S., J.

The present writ appeal is preferred by third parties, after obtaining leave, against the judgment dated 15.12.2021 in WP(C) No.26319/2021.

2. The brief facts necessary for the disposal of the appeal are as follows:

The 3rd respondent herein, the writ petitioner, approached this Court seeking to challenge Ext.P5 order dated 4.12.2020 passed by the Secretary, Regional Transport Authority, Kottayam. By Ext.P5 order dated 4.12.2020, the Secretary, Regional Transport Authority, Kottayam found that the 3rd respondent/petitioner had not cleared the tax arrears in respect of vehicle Nos.KL-06/F-6566 and KL-35-3802, and hence, the request for renewal of the permit was rejected. Against Ext.P5 order, the 3rd respondent/petitioner seems to have approached the State Transport Appellate Tribunal (STAT) with a statutory revision petition, MVARP No.3/2021, and by Ext.P1 order dated 12.2.2021, the Secretary, Regional Transport Authority,



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Kottayam was directed to accept the application for temporary permit of the 3rd respondent/petitioner on the route Kottayam-Cherthala in respect of stage carriage No.KL-06/F-6566 on condition that the 3rd respondent shall deposit an amount of Rs.75,000/- towards the arrears of tax. After considering the issues and also the objection received/raised during the time of hearing, the Regional Transport Authority, Kottayam decided to revoke the sanction accorded for renewal of permit No.C2/5042/2020/K dated 21.7.2020 through circulation in respect of stage carriage, KL-35-3802, since the grantee failed to produce the current records of the vehicle in time to endorse the renewal of the permit. The request for replacement of the later model of the stage carriage, KL-06/F-6566, was also rejected for nonpayment of arrears of tax in respect of outgoing stage carriage, KL-35-3802. Impugning Ext.P5 order dated 4.12.2020, the 3rd respondent approached this Court in the present writ petition. It must be noted that Ext.P5 order dated 4.12.2020 was no longer in force at the time of filing of the writ petition, inasmuch as the Authority had subsequently implemented the direction of the State Transport Appellate Tribunal and passed the consequential orders. The learned single Judge, who considered the writ petition, set aside Ext.P4 order with consequential direction to the Regional Transport Authority to reconsider the matter in terms



of Ext.P1 order of the State Transport Appellate Tribunal; thus culminating in an appropriate order after affording opportunity to all parties concerned. It is impugning the said direction that the appellants have preferred the present appeal, after obtaining leave of this Court.

3. While admitting the writ appeal, a Division Bench of this Court by order dated 17.1.2022 stayed the operation of the impugned judgment of the learned single Judge.

4. Heard Sri.K.V.Gopinathan Nair, the learned counsel appearing for the appellants, Sri.V.K.Shamsudheen, the learned Senior Government Pleader appearing for the State and Sri.Saju J.Vallyara, the learned counsel appearing for the 3rd respondent/writ petitioner.

5. On consideration of the rival submissions raised across the bar, we find that the relief granted by the learned single Judge is beyond the scope of the writ petition. The writ petition was *per se* misconceived and was not maintainable before this Court, when the petitioner had already invoked the statutory remedy available to him before the State Transport Appellate Tribunal. It is true that the consequential orders were passed pursuant to the direction of the tribunal in the pending revision petition. However, we are unable to subscribe to the conduct of the writ petitioner, where after



approaching the statutory tribunal and the consequential orders passed pursuant to the interim order of the tribunal being questioned before this Court in writ jurisdiction. The learned counsel for the writ petitioner could not point out any provision by which the tribunal is disabled to consider the validity or, otherwise, the sustainability of the consequential orders passed in pursuance to the directions issued by it during the pendency of the statutory revision petition. If that be so, the present writ petition was thoroughly misconceived and not maintainable when the statutory tribunal ceased of the matter.

6. Be that as it may, when we see the reliefs sought for in the writ petition, we find that there is no challenge raised by the petitioner against Ext.P4 order. Therefore, we are of the considered view that the learned single Judge was not justified in setting aside Ext,P4 order and directing the Regional Transport Authority to consider the entire issues afresh. If the petitioner was desirous of challenging Ext.P4 order, it was perfectly open to him to move the statutory tribunal and raise a challenge to the consequential orders passed by the Regional Transport Authority. Therefore, we are of the considered view that the appellants are entitled to succeed in this appeal.



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7. Accordingly, the writ appeal is allowed. The judgment of the learned single Judge is thus set aside. The writ petition is dismissed as not maintainable, however with liberty to the writ petitioner to challenge Ext.P4 order dated 26.2.2021 before the tribunal in MVARP No.3/2021, in accordance with law. The petitioner is granted liberty to move appropriate application raising a challenge to Ext.P4 order within a period of three weeks from the date of receipt of a copy of this judgment. If such an application is received, the tribunal shall proceed to consider the same, in accordance with law, and pass appropriate orders in the revision petition itself, after hearing both sides, within an outer period of six months.

With the aforesaid directions, the writ appeal stands allowed.

Sd/-

**DR.A.K.JAYASANKARAN NAMBIAR,
JUDGE**

Sd/-

**EASWARAN S.,
JUDGE**

jg



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APPENDIX OF WA 23/2022

PETITIONER ANNEXURES

Annexure A1 TRUE COPY OF THE JUDGMENT IN R.P.NO.1008 OF
2014 DATED 25.01.2021.

Annexure A2 TRUE COPY OF THE JUDGMENT IN WP(C) N
O.22543 OF 2014 DATED 25.01.2021.

Annexure A3 TRUE COPY OF THE ORDER OF THIS HON'BLE
COURT IN R.P.NO.64 OF 2021 IN WP(C)
NO.20338 OF 2020 DATED 09.02.2021.