

**DECISION OF THE REGIONAL TRANSPORT
AUTHORITY, THRISSUR**

HELD ON 15.09.2017

(Venue: Conference Hall 1, District Collectorate, Thrissur)

Present:

1. Shri.Dr. A. Kowsigan IAS

District Collector Thrissur

(Chairman-RTA Thrissur)

2. Shri.Yathish Chandra I.P.S

District Police Chief (Rural)

Member-RTA Thrissur

(ABSENT)

3. Shri.Shaji Joseph

Deputy Transport Commissioner,

Central Zone 1

(Member-RTA Thrissur)

Item No.1:- Heard. This is an application for grant of fresh regular permit on the route Kannattupadam School- Irinjalakkuda. Enquiry was conducted through MVI,Irinjalakkuda. It is reported that the route length of the proposed route is 42.9 Kms and overlaps the notified route for 3.5 Kms from Irinjalakkuda Bus stand to Chandakunnu(1.7Km) and Kallettumkara to Aloor junction (1.8km). The overlapping is more than 5% of the route length. As per clause 5(c) of G.O (P) No. 08/2017/Tran dated 23.03.2017, fresh permits can only be granted to private stage carriages,if the overlapping is below 5KM or 5% of the route length. The application for permit is not within the permissible limit of overlapping, as specified in the notification.

In view of above reason, application for fresh regular permit is **rejected.**

Item No.2:

A. Perused the Judgement of Hon'ble STAT.

B. Heard. The grant of renewal of permit in respect of S/C KL-08/U-4720 was revoked and application for replacement by S/C KL-08/D-2565 was also rejected by RTA in its meeting held on 03.10.2015. The appeal filed before the Hon'ble STAT, Ernakulam in MVAA No. 41/2016 challenging the above decision is disposed by the Tribunal as per the Judgement dated 17.06.2017. Considering the contention of the appellant that the records of original vehicle KL-08/U-4720, was with the authorities, the Hon'ble Tribunal allowed the appeal in part and set aside the impugned order with direction to RTA to consider the contention of the petitioner regarding the availability of records with this authority and to pass final orders.

On perusal of the version of the appellant and going through the records made available to this authority, it is understood that the vehicle KL-08/U-4720 is under continuous form G w.e.f. 01.04.2012. This shows that there is no ready vehicle at the time of renewal of permit and the records of vehicle are not current till date. Moreover the outgoing vehicle attained 15 years of age. No records were submitted at the time of submission of G-forms and the permit holder on 06.03.2015 had requested to allow maximum time for producing of the current records. Hence there is no merit in the contention of the petitioner. Reconsidering this matter afresh, this authority understood that there is no ready vehicle at the time of applying for renewal, which was upheld by Hon'ble High Court in Usman Vs RTA (WP(C) 24250/15) and also approved that there is no provision for considering the replacement and renewal,

at a time. Renewal of permit stands revoked and the subsequent replacement application stands **rejected**.

- C. In view of decision vide (B) above; as there is no valid permit, while the application for replacement is considered by this authority, the application for replacement stands **rejected**.

Item No.3:- Heard. Renewal of permit **granted** subject to

- 1) NOC from financier, if required
- 2) Clearance of Government dues, if any

Item No.4:-

1. Perused the Judgement of Hon'ble High Court of Kerala in 12703/2016 dated 06.04.2016.
2. Heard. This is an application for renewal of permit in respect of S/C KL-09/K 3399 on the route Chenam- Ayyanthole. The regular permit was valid up to 16.12.2013. Application for renewal of permit, submitted on 02.12.2013. The vehicle covered by the permit attained 15 year of age, set for stage carriages, on 28.02.2017. The application is filed in time and the same is renewable. Hence renewal of permit is **granted** subject to production of 'NOC' from HP Company, if applicable and clearance of Government dues, if any
3. Secretary is directed to take a decision on the application for replacement, as per law, after issuing the renewal of permit as per the decision (2) above.

Item No.5:- Heard. Renewal of permit **granted** subject to

- 1) NOC from financier, if required
- 2) Clearance of Government dues, if any

Item No.6:- A. Perused the Order of Hon'ble STAT in MVAA No:364/2011.

B. Heard. This is an application for renewal of permit in respect of Stage carriage KL-06/7119 to operate on the route Ernakulam-Kunnamkulam as LSOS. The regular permit was valid till 10.06.2011. The permit holder applied for renewal of permit for a further period of 5 years on 31.05.2011, which was not within the required time. The vehicle KL-6/7119 was registered on 17.05.1995 and the vehicle attained 15 years of age on 16.05.2010. The vehicle was under continuous Form G from 01.04.2008 to 31.03.2012. The permit holder had applied for replacement of vehicle with Stage carriage KL-47/5888 on 15/05/2009 and the replacement was not granted, since the vehicle was in tax arrears. SC KL- 47/5888 obtained clearance certificate to Sub Regional Transport Office, Guruvayur on 16.07.2010. Application for renewal of permit and variation of permit was rejected by RTA Thrissur in its meeting held on 08.08.2011. Appeal was filed before Hon'ble STAT and Hon'ble STAT in its interim order in M.P No 1008/2011 in MVAA No. 364/2011 dated 20/10/2011, held that permit in respect of stage carriage KL-6/7119, shall be continued to be valid, till the disposal of appeal in MVAA 364/2011. This was a privilege for operating his permit by way of replacement of a suitable vehicle. He could have applied for replacement with a ready vehicle in the strength of interim order of Hon'ble STAT. But he failed to do so. This is also a clear violation of Rule 152 of KMV Rules.

Eventhough he had obtained an interim favourable order for conducting service; he decided to obtain a clearance certificate by way of suspended animation. This shows that the permit holder had no intention to operate his vehicle on the route. RTA had earlier rejected the application on 08.08.2011, bearing the above facts in mind.

While considering this matter as afresh, this authority is bound to consider the dictum laid down in Usman Vs RTA. Considering the above facts, the application for renewal and replacement is devoid of merits and hence **rejected**.

C. In view of the decision (B), application for variation is **rejected**.

D. In view of the decision (B) application for replacement is **rejected**.

E. In view of the decision (B) application for Temporary permit under section 87(1) (d) is **rejected**.

Item No.7:-

A. Perused the judgement of Hon'ble STAT in MVAA 125/2016 dated 22.07.2017

B. Heard the counsel for the petitioner and additional respondents. Hon'ble STAT has viewed that the judgement of Hon'ble High Court in WP(C) 24250/15, Usman Vs RTA; is not applicable in this case. Hon'ble STAT also viewed that renewal has already been granted and what remains is endorsement and hence consideration of renewal and replacement together does not arise. The endorsement of renewal sought for in respect of another vehicle is a permissible exercise, as vehicle can be changed after the grant and before the issue.

In view of the order of Hon'ble STAT, this authority upheld the decision of RTA granting the renewal of permit. Hence the application

for replacement is **granted** ,subject to the clearance of dues if any to the Government and clearance from HP company, if applicable.

Item No.8:- Heard the learned counsel. This is an application for variation of permit condition. This authority has considered the application, verified the report of enquiry officer and examined the connected files in detail. Government of Kerala has modified the scheme notified under G.O(P) No.42/2009/Tran dated 14.07.2009 and published as per G.O(P) 08/2017/Tran dated 23.03.2017. Clause (4) of the newly modified scheme reads-“the permits granted in the private sector on 14.07.2009 will be permitted to operate as ordinary or limited stop ordinary services. The maximum distance prescribed in the rule 2(oa) in the Kerala Motor Vehicles Rules 1989 should apply to these served permits provided that further extension or variation shall not be allowed under any circumstances.” According to the above latest notification, especially as per clause (1) of the notification, the scheme is applicable to all routes in Kerala State.

In these circumstances, the application for variation is considered and this authority is of the opinion that the same could not be granted as per the directions contained in notification G.O.(P) No. 08/2017/Trans dated 23.03.2017. Hence the application for variation of permit is **rejected**.

Item No.9:-

1) Perused the judgement.

Heard the learned counsel. This is an application for variation of permit condition. This authority has considered the application, verified the report of enquiry officer and examined the connected files

in detail. Government of Kerala has modified the scheme notified under G.O(P) No.42/2009/Tran dated 14.07.2009 and published as per G.O(P) 08/2017/Tran dated 23.03.2017. Clause (4) of the newly modified scheme reads-“the permits granted in the private sectorason14.07.2009 will be permitted to operate as ordinary or limited stop ordinary services. The maximum distance prescribed in the rule 2(oa) in the Kerala Motor Vehicles Rules 1989 should apply to these served permits provided that further extension or variation shall not be allowed under any circumstances.” According to the above latest notification, especially as per clause (1)of the notification, the scheme is applicable to all routes in Kerala State.

In these circumstances, the application for variation is considered and this authority is of the opinion that the same could not be granted as per the directions contained in notification G.O.(P) No. 08/2017/Trans dated 23.03.2017. Hence the application for variation of permit is **rejected**.

Item No.10:-

Heard the learned counsel. This is an application for variation of permit condition. This authority has considered the application, verified the report of enquiry officer and examined the connected files in detail. Government of Kerala has modified the scheme notified under G.O(P) No.42/2009/Tran dated 14.07.2009 and published as per G.O(P) 08/2017/Tran dated 23.03.2017. Clause (4) of the newly modified scheme reads-“the permits granted in the private sectorason14.07.2009 will be permitted to operate as ordinary or limited stop ordinary services. The maximum distance prescribed in

the rule 2(oa) in the Kerala Motor Vehicles Rules 1989 should apply to these served permits provided that further extension or variation shall not be allowed under any circumstances.” According to the above latest notification, especially as per clause (1)of the notification, the scheme is applicable to all routes in Kerala State.

In these circumstances, the application for variation is considered and this authority is of the opinion that the same could not be granted as per the directions contained in notification G.O.(P) No. 08/2017/Trans dated 23.03.2017. Hence the application for variation of permit is **rejected**.

Item No.11:-

Heard the learned counsel. This is an application for variation of permit condition. This authority has considered the application, verified the report of enquiry officer and examined the connected files in detail. Government of Kerala has modified the scheme notified under G.O(P) No.42/2009/Tran dated 14.07.2009 and published as per G.O(P) 08/2017/Tran dated 23.03.2017. Clause (4) of the newly modified scheme reads-“the permits granted in the private sectorason14.07.2009 will be permitted to operate as ordinary or limited stop ordinary services. The maximum distance prescribed in the rule 2(oa) in the Kerala Motor Vehicles Rules 1989 should apply to these served permits provided that further extension or variation shall not be allowed under any circumstances.” According to the above latest notification, especially as per clause (1)of the notification, the scheme is applicable to all routes in Kerala State.

In these circumstances, the application for variation is considered and this authority is of the opinion that the same could not be granted as per the directions contained in notification G.O.(P) No. 08/2017/Trans dated 23.03.2017. Hence the application for variation of permit is **rejected**.

Item No.12:-

Heard the learned counsel. This is an application for variation of permit condition. This authority has considered the application, verified the report of enquiry officer and examined the connected files in detail. Government of Kerala has modified the scheme notified under G.O(P) No.42/2009/Tran dated 14.07.2009 and published as per G.O(P) 08/2017/Tran dated 23.03.2017. Clause (4) of the newly modified scheme reads-“the permits granted in the private sector on 14.07.2009 will be permitted to operate as ordinary or limited stop ordinary services. The maximum distance prescribed in the rule 2(oa) in the Kerala Motor Vehicles Rules 1989 should apply to these served permits provided that further extension or variation shall not be allowed under any circumstances.” According to the above latest notification, especially as per clause (1) of the notification, the scheme is applicable to all routes in Kerala State.

In these circumstances, the application for variation is considered and this authority is of the opinion that the same could not be granted as per the directions contained in notification G.O.(P) No. 08/2017/Trans dated 23.03.2017. Hence the application for variation of permit is **rejected**.

Item No.13:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.14:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No. 15:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.16:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.17:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.18:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.19:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.20:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.21:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.22:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.23:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.24:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.25:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.26:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.27:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.28:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

ItemNo. 29:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.30:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.31:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.32:-

Heard. It is reported that the applicant No.2 is not financially sound to maintain a stage carriage service. But bonafideness of the application is not ascertained. Secretary RTA is directed to conduct and submit detailed report under rule 178 of Kerala Motor Vehicles Rules. **Adjourned.**

Item No.33:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No. 34.

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.35:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.36:-

Heard. Transfer of permit is granted subject to,

- 1) Production of NOC from H P Company if applicable and
- 2) Clearance of Government dues if any

Item No.37:-

Heard. The regular permit is valid upto 23.12.2018. The permit holder had submitted an application for vehicle replacement on 07.10.2016, without mentioning a stage carriage with currency of records. Meanwhile, the outgoing vehicle KL-8/S 3945, attained 15 year of age on 07.10.2016. The registered owner had produced an incoming vehicle KL-48/A-151, only on 10.05.2017. In this context, this authority understood that at the time of submitting application for replacement on 07.10.2016, there is no ready vehicle in the name of applicant. Moreover he has produced a vehicle in his name, after a period of 7 months. The currency of the permit is to be treated as invalid from 07.10.2016, as the vehicle has completed 15 years of age. Considering the provisions in Rule 152 of KMV Rules and violation of permit condition, application for replacement is **rejected**.

Item No. 38:- Heard. The regular permit in respect of SC KL-2/M 8919 was valid upto 13.06.2017. The permit holder submitted renewal application on 27.05.2017. That apart, the vehicle owned by the

permit attained 15 year of age on 17.07.2017. An application for replacement with stage carriage KL-47/5494 was submitted on 15.07.2017. But the ownership of the vehicle was not effected at the time of submission of replacement application and it was effected only on 21.07.2017. Considering the above facts, the application for replacement is invalid and currency of the permit is to be ceased with effect from 17.07.2017. Hence application for replacement is **rejected**.

Item No.39:- Heard. Concurrence for renewal of permit **granted** subject to condition stipulated in G.O(P)No. 08/2017/Tran dated 23.03.2017.

Item No.40:-

- A. Perused the Judgement of Hon'ble High Court of Kerala dated 17.08.2017 in WP(C) 26150/17.
- B. Heard. Maximum time for 4 months from the date of receipt of order of RTA, as per Rule 159(2) of KMV Rule, **allowed**

Item No.41:-

Perused the file. Maximum time for 4 months from the date of receipt of order of RTA, as per Rule 159(2) of KMV Rule, **allowed**

Item No.42:- Heard. On perusal of file, it is understood that the check report dated 10.11.2010 had been closed in time and remaining two were also closed before preparing this agenda. Hence, this authority could not find any further action in these cases.

Item No.43:- Heard. Perused the judgement of Hon'ble High Court of Kerala in WP(C) 19612/17 dated 14.06.2017. Considered the application for variation of Autorickshaw permit, by changing the parking place from Panchayath area to Corporation limit (Poonkunnam). The applicant is a resident of said Panchayath limit. The proposed parking area is situated on the busy road between Poonkunnam Railway overbridge and Poonkunnam junction. A pocket road coming from eastern side joins the main road, nearby the auto stand. A busy bus stop is also situated opposite side of the auto stand. A road divider is also provided from the Poonkunnam junction to the deviation to the pocket road. Hence the vehicle coming from Railway over bridge and the pocket road is facing a huge difficulty to overcome the heavy traffic flow between the Auto stand and divider. In this regard, this directions has to be followed, according to the judgement mentioned in *Chandran C.E. vs District Collector Kozhikode and others-2013 (3) KHC53: 2013 (3)KLT 449* (i.e), a minimum of 1.5 metres beyond the tarred margin of the road is to be left for pedestrian traffic throughout the State, while specifying auto rickshaw and Taxi stands. It is also noticed that the drivers of auto rickshaws parked in the busy main road are facing a major threat to their life in view of the heavy flow of traffic. At present about 40 auto rickshaws are being parked and there is no space to provide more number of auto rickshaws. In view the above de-merits, the application for variation could not be considered and stands **rejected**

Item No:44 Heard the counsel for appellant and objectors. Perused the judgement of Hon'ble STAT . The regular permit in respect of Stage Carriage KL-08/D-8822 expired on 18.05.2007 and has not been renewed. The vehicle attained the age of 15 years on

23.09.2009. This application is for the grant of temporary permit on the route Kodungallur- Ottapalam. As there is no valid permit in respect of Stage carriage KL-08/D-8822, substitute temporary permit application is not maintainable. Even if the application is considered as a fresh temporary permit application, the same could not be granted as there is objectionable overlapping on the notified routes Thrissur-Thriprayar-Thiruvananthapuram- Kannur and Kottayam – Kozhikode for a total distance about 69 kms. As per clause 19 of G.O. (P) No. 08/2017/Tran dated 23.03.2017, the right to operate additional services or increase the number of trips on each routes mentioned in the annexure as per traffic demand is reserved for KSRTC. The grant of this temporary permit is against the above said notification. Hence **rejected**.

Item No:45

1) Perused the judgement.

Heard the learned counsel. This is an application for variation of permit condition. This authority has considered the application, verified the report of enquiry officer and examined the connected files in detail. Government of Kerala has modified the scheme notified under G.O(P) No.42/2009/Tran dated 14.07.2009 and published as per G.O(P) 08/2017/Tran dated 23.03.2017. Clause (4) of the newly modified scheme reads-“the permits granted in the private sector on 14.07.2009 will be permitted to operate as ordinary or limited stop ordinary services. The maximum distance prescribed in the rule 2(oa) in the Kerala Motor Vehicles Rules 1989 should apply to these served permits provided that further extension or variation shall

not be allowed under any circumstances.” According to the above latest notification, especially as per clause (1)of the notification, the scheme is applicable to all routes in Kerala State.

In these circumstances, the application for variation is considered and this authority is of the opinion that the same could not be granted as per the directions contained in notification G.O.(P) No. 08/2017/Trans dated 23.03.2017. Hence the application for variation of permit is **rejected**.

Item No:46

Ratified the actions taken by the Secretary RTA only in the strict compliance of existing Motor Vehicles Act and Rules

Item No:47 Nil

Item No:48 26-10-2017

Supplementary Item no 1

Heard. Renewal of permit **granted** subject to

- 1) NOC from financier, if required
- 2) Clearance of Government dues, if any

Supplementary Item no 2

Perused. Secretary RTA is directed to comply the direction of Hon'ble High Court of Kerala in WA 1466/2016 dated 18.07.2017 in WP(C) 19513/2017.

Supplementary Item no 3

Heard. Perused the judgement in WP(C) No. 6367/2017 dated 27.02.2017. This is a representation received from Sri. P K Mukundan, S/o Kumaran, President Chalakkudy Mekhala Motor Cab Drivers Association. In this representation, there is a request to allow parking place for Motor Cabs in eleven places at Chalakkudy Municipal areas.

In this connection, an enquiry report has been received from Motor Vehicle Inspector, Sub RTO Office, Chalakkudy on 30.08.2017. He stated that parking arrangement have been provided near to I vision Hospital, Taluk hospital casualty and below the South Junction Flyover and the decision has been taken by the Traffic Regulatory Committee and approved by Municipal Council, Chalakkudy on 30.07.2016. According to the enquiry report of the Motor Vehicles Inspector, there is no approval from the Traffic Regulatory Committee according to Section 72, Chapter VI of Police Act 2011, for sanctioning the eleven parking areas, requested by the applicant. In this regard, this directions has to be followed, according to the judgement mentioned in *Chandran C.E. vs District Collector Kozhikode and others-2013 (3) KHC53: 2013 (3)KLT 449* (i.e), a minimum of 1.5 metres beyond the tarred margin of the road is to be left for pedestrian traffic throughout the State, while specifying autorickshaw and Taxi stands. Even though the previous sanction of the Regional Transport Authority has to be obtained before the

opening of a stand, or halting place for a motor vehicle, the traffic regulatory committee of that area is competent to regulate the traffic issues, prescribed in the Section 72 of Kerala Police Act 2011. That apart, the representation shall be considered by the Traffic Regulatory Committee of Chalakkudy Municipality ,since Municipality is not powerless in determining the location of Bus stand and parking places; as viewed in the case *Sankaran vs Palakkad Municipality-2004(1)KLT SN 17*

In view of the above findings, the representation for allowing additional parking place is disposed and the applicant can approach the Traffic Advisory Committee of that area, since head of Local Government Institution (Chalakkudy Municipality) is the Chairman of Traffic regulatory committee

absent

Shri.Shaji Joseph
Chandra I.P.S

Deputy Transport Commissioner

Central Zone I (Member-RTA Thrissur)
Chief (Rural)

RTA Thrissur)

Shri.Yathish

District Police

(Member

Shri.Dr. A. Kowsigan IAS

District Collector Thrissur

(Chairman-RTA Thrissur)