

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

MONDAY, THE 27<sup>TH</sup> DAY OF MARCH 2023 / 6TH CHAITHRA, 1945

WP(C) NO. 2303 OF 2023

PETITIONER:

FAYAZ MUHAMMED KASIM,  
AGED 33 YEARS,  
S/O.MUHAMMED KASSIM, VELLEPERAMBIL, VRINDAVAN  
ROAD, CHACKARAPARAMBU, THAMMANAM P.O.,  
ERNAKULAM DISTRICT, PIN - 682 032.

BY ADVS.  
G.HARIHARAN  
PRAVEEN.H.  
K.S.SMITHA  
V.R.SANJEEV KUMAR  
GENTLE C.D.  
REVATHI P.M.

RESPONDENT:

- 1 REGIONAL TRANSPORT OFFICER,  
REGIONAL TRANSPORT OFFICE, CIVIL STATION,  
KAKKANAD, ERNAKULAM DISTRICT, PIN - 682 030.
- 2 TRANSPORT COMMISSIONER,  
MOTOR VEHICLE DEPARTMENT HEAD QUARTERS, TRANS TOWERS,  
VAZHUTHACAUD, THIRUVANANTHAPURAM,  
PIN - 695 014.
- 3 STATION HOUSE OFFICER,  
KANJAR POLICE STATION, KANJAR,  
IDUKKI DISTRICT, PIN - 685 590.  
SMT.MABLE C.KURIAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
27.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **J U D G M E N T**

The petitioner, who is the registered owner of a tempo traveller-contract carriage vehicle bearing registration No.KL-07CT-3985 has approached this Court seeking for the following reliefs:

- (i) Issue a writ of mandamus or any other appropriate writ or order directing the 1st respondent to cancel the endorsement of cancellation of Fitness Certificate mentioned in Exhibit.P4 which is against the provisions of Section 56 of the Motor Vehicles Act and also against the provisions of Rule 62 of the Central Motor Vehicles Rules.
- (ii) Issue a writ of mandamus or any other appropriate writ or order directing the 2nd respondent to restore the validity of the Fitness Certificate of the vehicle mentioned in Exhibit.P1 upto the date mentioned in Exhibit.P2 RC Status.
- (iii) To pass such orders or reliefs as this Hon'ble Court deems fit in the interest of justice.

2. The petitioner's grievance is that, the Motor Vehicle authorities have cancelled the fitness certificate of the vehicle without legally sustainable grounds. This writ petition was submitted in such circumstances.

3. In response to the averments contained in the writ petition, detailed counter affidavit has been filed by the 1<sup>st</sup> respondent, wherein the reasons for cancellation of the fitness certificate has been specifically mentioned. The aforesaid reasons are extracted in paragraph 17 of the counter affidavit which are as follows:

“17. Reasons for cancelling the Certificate of Fitness as per Exhibit R2(b) is extracted hereunder:

- i. OEM (Original Equipment Manufacturer) wiring system tampered unauthorizedly and fitted with high wattage music system, additional multicoloured lights on interior and exterior.
- ii. Not obeying colour code, colours found as Black, Red and Silver on vehicle body.
- iii. Additional high wattage amplifier unit fitted for sound system with multiple speakers.”

4. Aforesaid violations of the rules were noticed when the vehicle was produced for inspection and the cancellation was ordered in the light of the directions issued by the Division Bench of this Court in SSCR No.20/21 dated 06.10.2020. It is further pointed out in the counter affidavit that the fitness certificate can be restored once the defects notified by the authorities concerned are rectified.

5. Today, when the matter came up for consideration, the learned counsel for the petitioner submitted that, the petitioner has already removed all the extra fittings and thereby rectified the defects notified above.

In such circumstances, this writ petition is disposed of, permitting the petitioner to produce the vehicle before the 1<sup>st</sup> respondent for the purpose of inspecting the same, and it is further directed that, upon such inspection, if it is found that the vehicle is complying with all the statutory stipulations, the said authority shall restore the fitness certificate. The said exercise has to be carried out by the 1<sup>st</sup> respondent within a period of two weeks from the date of production of the vehicle before the authorities concerned.

Sd/-

**ZIYAD RAHMAN A.A.**  
**JUDGE**

DG/27.3.23

APPENDIX OF WP(C) 2303/2023*PETITIONER EXHIBITS*

- Exhibit P1*                      *A TRUE COPY OF THE REGISTRATION  
CERTIFICATE OF A CONTRACT CARRIAGE  
VEHICLE BEARING REGISTRATION NO.KL-07CT-  
3985*
- Exhibit P2*                      *A TRUE COPY OF THE RC STATUS RELATING TO  
THE VEHICLE MENTIONED IN EXHIBIT.P1 AS ON  
23.05.2022*
- Exhibit P3*                      *A TRUE COPY OF THE FIR REGISTERED BY THE  
3RD RESPONDENT IN CONNECTION WITH THE  
ACCIDENTS OF THE VEHICLE ON 15.01.2023*

*RESPONDENT EXHIBITS*

- EXHIBIT R1 (b)*                      *True copy of the Form CFX notice issued  
under Rule 107 of Kerala Motor Vehicles  
Rules 1989 on 06/12/2022*

*PETITIONER EXHIBITS*

- Exhibit P 4*                      *. A TRUE COPY OF THE RC STATUS OF THE  
VEHICLE NO.KL-07CT-3985 TAKEN AS ON  
13.12.2022*

*RESPONDENT EXHIBITS*

- EXHIBIT R1 (c)*                      *E-Challan bearing No-KL105599221206101753  
dated 06/12/2022 print out from web site  
(<http://echallan.parivahan.gov.in>)*
- EXHIBIT R1 (a)*                      *True Copy of the letter No-E1/121/2022-TC  
dated 10/10/2022 issued by the Transport  
Commissioner.*