

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

THURSDAY, THE 10TH DAY OF AUGUST 2023 / 19TH SRAVANA, 1945

WP(C) NO.31757 OF 2022

PETITIONER:

KOZHIKODE BUS OPERATORS CO-OPERATIVE SOCIETY LTD.
NO.D 3011, FATHIMA COMPLEX, EAST KOTTAPPARAMBA,
KOZHIKODE-673 010 REPRESENTED BY THE PRESIDENT
K.RADHAKRISHNAN.

BY ADV K.V.GOPINATHAN NAIR

RESPONDENTS:

- 1 THE SECRETARY, REGIONAL TRANSPORT AUTHORITY
(REGIONAL TRANSPORT OFFICE), GROUND FLOOR,
CIVIL STATION, ERANHIPALAM, KOZHIKODE - 673 020.
- 2 SANDEEP K.P.
S/O.RAJAN, SURABHI HOUSE, KATTIPARAMABATH,
VENGERI POST, KARAPARAMBU, KOZHIKODE - 673 010.

BY ADVS.
SRI.SAJEEV KUMAR K.GOPAL
SMT.PARVATHY K., GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 10.08.2023, ALONG WITH WP(C) NO.7292/2023, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

THURSDAY, THE 10TH DAY OF AUGUST 2023 / 19TH SRAVANA, 1945

WP(C) NO.7292 OF 2023

PETITIONER:

**SANDEEP K.P, AGED 34 YEARS
S/O.RAJAN K.P., AGED 34 YEARS, RESIDING AT
SURABHI HOUSE, KATTILPARAMBATH, VENGARI POST,
KARAPARAMBA, KOZHIKODE, PIN - 673010**

BY ADV.SAJEEV KUMAR K.GOPAL

RESPONDENTS:

- 1 THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
(REGIONAL TRANSPORT OFFICE), GROUND FLOOR,
CIVIL STATION, ERANHIPALAM, KOZHIKODE,
PIN - 673020**
- 2 KOZHIKODE BUS OPERATORS CO-OPERATIVE SOCIETY
LTD.NO.D 3011, FATHIMA COMPLEX, EAST
KOTTAPPARAMBA, KOZHIKODE-673 010, REPRESENTED BY
THE PRESIDENT K.RADHAKRISHNAN.**

**BY ADVS.
SRI.K.V.GOPINATHAN NAIR
SRI.V.S.SREEJITH, GOVERNMENT PLEADER**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 10.08.2023, ALONG WITH WP(C) NO.31757/2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

JUDGMENT

Since common issues arise for consideration in both the writ petitions, they are heard together and are disposed of by this common judgment.

2. The petitioner in WP(C) No.31757 of 2022 is a Co-operative Society. According to the petitioner, it had advanced a loan to the 2nd respondent for the purchase of a vehicle. Ext.P2 is the Registration Certificate in respect of the vehicle purchased by the 2nd respondent. The learned counsel for the petitioner submits that the said vehicle has been issued with a stage carriage permit and as per Ext.P4, the 1st respondent renewed the permit without receiving No Objection Certificate from the petitioner. According to the petitioner Society, the renewal of permit granted to the 2nd respondent is illegal,

arbitrary and contrary to the provisions contained in Section 51 of the Motor Vehicles Act [for brevity, 'the Act']. Accordingly, the petitioner prays for a direction to quash Ext.P4.

3. WP(C) No.7292 of 2023 is filed by the 2nd respondent in WP(C) No.31757 of 2022 for a direction to the 1st respondent to cancel the endorsement regarding hypothecation in the Registration Certificate of the vehicle made at the instance of the 2nd respondent Society. According to the petitioner, he has not availed any hypothecation loan in respect of the aforesaid vehicle and the endorsement regarding hypothecation has been made without his knowledge. The petitioner has submitted Ext.P3 representation before the 1st respondent to cancel the endorsement regarding hypothecation.

4. Heard the learned counsel for the

petitioner in both the writ petitions and the learned Government Pleader.

5. The question as to whether the No Objection Certificate of the Society is required for the renewal of permit of the stage carriage will depend on the question as to whether there is hypothecation loan in respect of the vehicle. According to the petitioner, he has not availed any hypothecation loan. This is disputed by the Society. The fact remains that there is endorsement regarding hypothecation in the registration certificate. The petitioner in WP(C) No.7292 of 2023 has submitted Ext.P3 representation for cancellation of the said endorsement.

6. In the facts and circumstances of the case, there will be a direction to the 1st respondent to consider Ext.P3 and pass appropriate orders, in

accordance with law. In case the 1st respondent finds that the hypothecation endorsement has been rightly and validly made, then the 1st respondent shall take steps to cancel Ext.P4 and in such case any fresh application for renewal shall be considered only in accordance with the provisions of Section 51 of the Act. Orders as above shall be passed by the 1st respondent within a period of three weeks from the date of receipt of a certified copy of this judgment.

The writ petitions are disposed of.

Sd/-

**MURALI PURUSHOTHAMAN
JUDGE**

sp/10/08/2023

APPENDIX OF WP(C) NO.31757/2022

PETITIONER'S EXHIBITS: -

EXHIBIT P1	COPY OF THE CERTIFICATE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL) KOZHIKODE DATED 19/8/2022.
EXHIBIT P2	COPY OF THE REGISTRATION PARTICULARS IN RESPECT OF VEHICLE KL-11/A3 8577.
EXHIBIT P3	COPY OF THE REGULAR PERMIT VALID UPTO 2/9/2021.
EXHIBIT P4	COPY OF THE RENEWED PERMIT ISSUED BY THE 1ST RESPONDENT VALID TILL 2/9/2026.
EXHIBIT P5	COPY OF THE REQUEST SUBMITTED BY THE PETITIONER DATED 19/8/2022.
EXHIBIT P6	COPY OF THE REPLY ISSUED BY THE 1ST RESPONDENT DATED 27/8/2022.
EXHIBIT P7	COPY OF THE CIRCULAR NO.19/2015 DATED 22.7.2015 OF THE TRANSPORT COMMISSIONER
EXHIBIT P8	COPY OF THE APPLICATION SUBMITTED BY THE 2ND RESPONDENT ON 24.9.2018 WHICH WAS ORDERED ON 13.10.2018

RESPONDENTS' EXHIBITS: -

EXHIBIT-R2(B)	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND RESPONDENT DATED 20-10-2022 TO CANCEL THE HYPOTHECATION IN THE RC
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- EXHIBIT-R2(C)** TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER DATED 10-08-2022 BEFORE THE PUBLIC INFORMATION OFFICER OF THE 1ST RESPONDENT
- EXHIBIT-R2(D)** TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND RESPONDENT UNDER THE RTI ACT DATED 24-09-2022
- EXHIBIT-R2(E)** TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND RESPONDENT DATED 03-09-2022 BEFORE THE 1ST RESPONDENT
- EXHIBIT-R2(F)** TRUE COPY OF THE OBJECTION SUBMITTED BY THE 2ND RESPONDENT AGAINST THE PROPOSAL FOR REVOKING THE RENEWAL DATED 11-08-2022
- EXHIBIT-R2(G)** TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND RESPONDENT DATED 30-07-2022 BEFORE THE 1ST RESPONDENT
- EXHIBIT-R2(A)** TRUE COPY OF THE INFORMATION RECEIVED FROM THE RESERVE BANK OF INDIA UNDER THE RTI ACT DATED 27-09-2022.

APPENDIX OF WP(C) NO.7292/2023

PETITIONER'S EXHIBITS:-

EXHIBIT P1	TRUE COPY OF THE REGULAR PERMIT VIDE PST11/412/1991 DATED 15-05-2018
EXHIBIT P2	THE INFORMATION RECEIVED FROM THE RESERVE BANK OF INDIA UNDER THE RTI ACT DATED 27-09-2022
EXHIBIT P3	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 20-10-2022 TO CANCEL THE HYPOTHECATION IN THE RC
EXHIBIT P4	TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER DATED 10-08-2022 BEFORE THE PUBLIC INFORMATION OFFICER OF THE 1ST RESPONDENT
EXHIBIT P5	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER UNDER THE RTI ACT DATED 24-09-2022
EXHIBIT P6	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 03-09-2022 BEFORE THE 1ST RESPONDENT
EXHIBIT P7	TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER AGAINST THE PROPOSAL FOR REVOKING THE RENEWAL DATED 11-08-2022
EXHIBIT P8	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 30-07-2022 BEFORE THE 1ST RESPONDENT

RESPONDENT'S EXHIBITS:-

EXHIBIT R2(A)	TRUE COPY OF THE CERTIFICATE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETY (GENERAL) KOZHIKODE DATED 19.8.2022
EXHIBIT R2(B)	TRUE COPY OF THE CIRCULAR DATED 22.7.2015