

MINUTES OF THE MEETING OF REGIONAL TRANSPORT

AUTHORITY ERNAKULAM HELD ON 15/07/2017

Present:- Chairman-

Sri.K.MUHAMMED.Y.SAFEERULLA,I.A.S, The District Collector, Ernakulam

Member:-

Sri.K.G.Samuel, Deputy Transport Commissioner [Law], CZ- II, Ernakulam.

Item No.01

1.Heard;Adv.M.Jithesh Menon, the learned counsel represented the applicant Sri.Abdul Rahmankutty. This is the application for the grant of fresh inter district regular permit in respect of stage carriage KL-38-E-9425 of 2016 model on the route Azheekode Jetty- North Parur- Vyttila Hub via Eriyad Block, Moothakunnam, Munambamkavala, Koonammavu, Varappuzha Bridge, Edappally and Palarivattom Bypass as ordinary moffusil service. This authority in its earlier sitting considered the application and sought prior concurrence of the sister authority RTA Thrissur U/R 171 of KMV Rules-1989. Now, the RTA Thrissur has given concurrence for the grant of regular permit. This authority considered the application in detail. As per the route enquiry report furnished by the field officer, the proposed route will not objectionably overlaps notified route published vide GO(P) No.42/2009/Tran dtd 14/07/2009 and further modified by GO(P) No.08/2017/Tran dtd 23/03/2017. In the light of judgment of Hon'ble High Court, this authority permitted the applicant to operate service with successively issued temporary permit with a settled set of time schedule

In this sitting, Adv.Stalin Peter Davis, the learned counsel represented the private bus operators has alleged that the concurrence granted by the RTA Thrissur was not on the applied route and objected that the route on which regular permit is applied is objectionably overlaps notified routes published vide GO(P) No.42/2009/Tran dtd 14/07/2009 and hence

requested to seek clarification from the sister RTA. The learned counsel represented the State Transport Undertaking, the beneficiary of the notified scheme has not raised objection against the grant of proposed permit.

Considering the objection raised by the learned counsel, this authority decided to seek clarification from the Secretary RTA with request to furnish a copy of the route enquiry report of the field officer with sketch, intermediate places and details of overlapping on notified route. Hence decision is adjourned to next sitting.

2.As the applicant is operating on the same route with settled time schedule ,there is no objectionable overlapping reported by the available route enquiry report, the state Transport Undertaking, the beneficiary of the notified scheme has not objected the grant of permit on the proposed route, the Secretary RTA is directed to issue temporary permits for durations of 4 months if the conditions stipulated U/S 87[1] C of MV Act are satisfied in the light of judgment in W.A No.993/2017 till final decision taken on the application for the grant of regular permit.

Item No.02

1.Heard;Adv.M.Jithesh Menon, the learned counsel represented the applicant Sri.Sarin.P.S. This is the application for the grant of fresh inter district regular permit in respect of stage carriage KL-07-AH-4944 of 2002 model or a suitable stage carriage on the route Kodakara- High Court Jn via Aloor, Astamichira, Mala, Poyya, Keethol, Moothakunnam, Maliyankara Bridge, Cherai and Gosree Bridges as ordinary moffusil service. This authority in its earlier sitting considered the application and sought prior concurrence of the sister authority RTA Thrissur U/R 171 of KMV Rules-1989. Now, the RTA Thrissur has given concurrence for the grant of regular permit. This authority considered the application in detail. The State Transport Authority in its sitting held on 14/06/2017 restricted the age limit of the stage carriages in applying and granting fresh ordinary regular stage carriage permit as eight years . In this case, in the application, the applicant has offered KL-07-AH-4944 of 2002 model, which cannot be considered for the grant of regular permit. Therefore the applicant is

permitted to submit a modified application in Form P.St.S.A furnishing details of suitable vehicle not older than eight years within a period of 30 days, failing which the application will be disposed in the next sitting. Hence adjourned.

Item No.03

Heard; Adv.M.Jithesh Menon, the learned counsel represented the applicant. This is the application for the grant of fresh inter district regular permit on the route Ezhattumugham- Angamaly- Chully- Chalakkudy Pvt Bus Stand as Ordinary moffusil service. This authority in its earlier sitting held on 17/08/2016 considered the application and rejected the same on the following grounds.

1.The applicant has not offered a suitable vehicle having age not less than five old as decided by the RTA.

2.The applicant is a holder of another stage carriage permit and he has not operating service for last few years and tax in respect of the vehicle is pending.hence the applicant has no financial stability to operate stage carriage service for the public.

3.The focus of operation is in between Angamaly and Chalakkudy and only one trip is provided to Ezhattumugham with an intension to avoid objectionable overlapping on notified route.

4.The proposed route is having length of 94 km and the route is objectionably overlaps [5.4 km] Trivandrum-palakkad and Trivandrum- Kannur notified schemes published vide GO(P) No.45/2009/Tran dtd 14/07/2009.

5.The enquiry officer has reported that the time schedule proposed by the applicant is contravened to the provisions of speed and running time specified in the MV Act and Rules made thereunder.

6.There is no operational bus stand at Athani, one of the terminus of the proposed route.

Above rejection was challenged before the STAT vide MVARP No.133/2016. Vide judgment in above petition, the tribunal has pronounced that there is nothing on record to show that copy of the report was given to the appellant before relying on the same. The insufficiency of providing trips to Ezhattumugham is not a ground to reject the regular permit. If the

respondents have such a case, the regular permit would be granted by incorporating a condition to increase trips to Ezhattumugham. It is also pronounced that in the settled law there is no need to have a ready vehicle at the time of submission or consideration of the application for regular permit. Hence directed the RTA to reconsider the application and dispose the matter in accordance with the principles of natural justice .

In the light of above order, this authority heard all affected parties and reconsidered the application in detail and reveals that

- A. If the doubling of distance between Angamaly Bank Jn and Angamaly Bus Stand is considered, the distance of overlapping on notified route will be reduced to 4.6 km, which is a permissible one.
- B. Adv.Stalin Peter Davis, the learned counsel represented other private operators has strongly objected the grant of permit that the distance of overlapping at Chalakkudy in Thrissur district is also beyond the permissible limit and the submitted the route enquiry report will not specify the actual overlapping in Thrissur district.
- C. The enquiry officer has not specified whether the applicant is financially stable to maintain a stage carriage service.
- D. The applicant has not provided sufficient trips to Ezhattumugham

While considering the appeal and pronouncing judgment in MVARP No.133/2016, the Hon'ble Tribunal has not considered the findings and observations rendered by this authority in the decision dtd 17/08/2016 such that the applicant is not financially stable for maintaining stage carriage service, the report of the field officer certifying that the timings proposed by the applicant is contravened to the provisions of speed and running time specified in the MV Act and Rules. The Statutory provisions of Motor Vehicles Act and Rules shall be complied by the applicant for the permit. In this case the applicant has not furnished a modified time schedule in accordance with provisions of MV Act and Rules. However considering the judgment of Hon'ble STAT this authority reconsidered the application after hearing all affected parties and directed the applicant to

1. Submit a modified proposal by providing entire trips to Ezhattumugham on public interest and furnish a time schedule in accordance with the provisions of speed and running time specified in the MV Act and Rules made thereunder and furnish the details of the stage carriage not older than eight years as per the decision of the State Transport Authority dtd 14/06/2017 against serial No.06 in the application for the grant of regular permit.

After compliance of the above direction, the Secretary RTA is directed to

1. Seek route enquiry report from the Secretary RTA Thrissur for the portion of the route lying under the jurisdiction of that authority with exact route length and overlapping on notified routes.
2. Call detailed report from the field officer for ascertain financial stability of the applicant to maintain a stage carriage service.

Hence adjourned.

Item No.04

1. Heard the learned counsel represented the applicant Sri.Shibu.C.S. This is the application for the grant of fresh inter district regular permit in respect of a suitable stage carriage on the route Mala- Angamaly- Malayattoor- Adivaram as ordinary moffusil service. This authority in its earlier sitting considered the application and sought prior concurrence of the sister authority RTA Thrissur U/R 171 of KMV Rules-1989. Now, the RTA Thrissur has given concurrence for the grant of regular permit. This authority considered the application in detail. The State Transport Authority in its sitting held on 14/06/2017 restricted the age limit of the stage carriages in applying and granting fresh ordinary regular stage carriage permit as eight years . In this case, in the application, the applicant has not offered a vehicle in accordance with the decision of STA, which cannot be permitted. Therefore the applicant is permitted to submit a modified application in Form P.St.S.A furnishing details of suitable vehicle not older than eight years within a period of 30 days, failing which the application will be finalized in the next sitting. .As per the time schedule the applicant has not

provided sufficient trips between Mala and Adivaram. Therefore the applicant is also directed to modify the application and time schedule by providing more trips between the above termini. Hence adjourned.

2. Secretary RTA is directed to issue temporary permits for durations of 4 months if the conditions stipulated U/S 87[1] C of MV Act are satisfied in the light of judgment in W.A No.993/2017 till final decision taken on the application for the grant of regular permit.

Item No.05

Heard; Adv.P.Deepak, the learned counsel represented the applicant Sri.Karunakaran Nair. This is the application for the grant of fresh regular permit in respect of a suitable stage carriage on the route Narackal- North Parur- High Court Jn via Cherai and Vypin touching Kalamukku as Ordinary moffusil service. The proposed route is an intra district route having route length of 28.5 km. The route enquiry officer has reported that the applicant proposed a permit and time schedule of the defaulted vacancy of another stage carriage on the same route. But not reported, how the vacancy originated . The applicant has not offered particulars of stage carriage in accordance with the decision of the STA with regard to the age of stage carriage for filing of application and the grant of fresh ordinary moffusil stage carriage permit. Therefore, the applicant is directed to

1. Furnish the details of the stage carriage not older than eight years as per the decision of the State Transport Authority dtd 14/06/2017 against serial No.06 in the application for the grant of regular permit.
2. The Secretary RTA is directed to call further report from the field officer with regard to the origin of reported vacancy.

Hence adjourned.

Item No.06

Heard; the learned counsel represented the STU, the applicant. This is the application for the grant of fresh regular permit in respect of stage carriage KL-15-9217 on the route Ernakulam- Aroor- Angamaly as Ordinary moffusil service. The proposed entire route is overlaps notified routes and the

applicant is the beneficiary of the notified schemes. Therefore proposed regular permit is granted with proposed set of timings.

Item No.07

Heard; the learned counsel represented the STU, the applicant. This is the application for the grant of fresh regular permit in respect of stage carriage KL-15-9214 on the route Ernakulam- Aroor- Angamaly as Ordinary moffusil service. The proposed entire route is overlaps notified routes and the applicant is the beneficiary of the notified schemes. Therefore proposed regular permit is granted with proposed set of timings.

Item No.08

This is the application for the grant of fresh regular permit in respect of a suitable stage carriage on the route Kalady- Kakkanad as Ordinary moffusil service. The applicant is absent and he has not offered particulars of stage carriage in the application in accordance with the decision of the STA with regard to the age of stage carriage for filing of application and the grant of fresh ordinary moffusil stage carriage permit. Therefore, the applicant is directed to

1. Furnish the details of the stage carriage not older than eight years as per the decision of the State Transport Authority dtd 14/06/2017 against serial No.06 in the application for the grant of regular permit.
2. Appear in the next sitting of this authority after compliance of the direction issued above.

Hence adjourned.

Item No.09

1.Heard; Adv. P. Deepak, the learned counsel represented the applicant Sri.Jismon.P.V. This is the application for the grant of fresh regular permit in respect of a suitable stage carriage on the route Kavumthazham-Kaninadu- Infopark Phase-II- Kakkanad- Chittethuukara- Karingachira-HMT Jn- Medical College as Ordinary moffusil service. He has also applied for the grant of temporary permit on the same route in respect of stage

carriage KL-05-P-3699. This authority considered the application in detail. The application for the permit was filed stating that Kavumthazham and Kaninadu are ill served area and no direct stage carriage service from that places to Kakkanad and Medical College. On consideration of the time schedule proposed by the applicant, this authority felt that out of proposed twenty trips, only two trips are provided to kavumthazham and no sufficient trips provided to Medical College Kalamassery. Remaining trips are focused to operate in between HMT Jn- Kakkanad and Kakkanad- Infopark. The route enquiry officer has reported that the the above two sectors are well served.

The Regional Transport Authority is constituted to consider the application and grant permit to provide better travelling facilities to the public in the entire area under the jurisdiction of the authority. The proposed two trips are not sufficient to cater the need of public residing at Kavumthazham and Kaninadu and the applican has not provided sufficient trips to Kalamassery Medical college. Therefore , the applicant is directed to *Submit a modified proposal by providing additional trips to Kavumthazha, kaninadu and Medical College and furnish the details of the stage carriage not older than eight years as per the decision of the State Transport Authority dtd 14/06/2017 against serial No.06 in the application for the grant of regular permit. Hence adjourned.*

2.As there is no necessity reported for the grant of temporary permit U/S 87[1]C on the proposed route with proposed time schedule, the application for the temporary permit is hereby rejected.

Item No.10

1.Perused the judgment of Hon'ble High Court of Kerala in WP© No.15636/2017 dtd 09/05/2017

2.Heard; Adv.P.Deepak the learned counsel represented the applicant and Counsel represented the KSRTC. This is the application for variation of regular permit in respect of stage carriage KL-07-AU-5040 operating on the route Kumbalangi-Cheranelloor as Ordinary service. This authority ints is

earlier sitting held on 05/04/2015 considered the application in the light of enquiry report furnished by the field officer, objections raised by the public, local body and connected file in compliance to the judgment of Hon,ble STAT in MVAA No.68/2014 and rejected the same on the ground that the proposed curtailment of service from Kacherippady Jn to Ayyappankavu and Kumbalangy will adversely affect the travelling public and proposed extension of trip from Perumpadappu to Kumbalangy will be clear violation of clause[19] of the notification 42/2009/Tran dt d14/07/2009.

Against the above order, the permit holder approached the Hon'ble High Court of Kerala stating that the Government Notification. 42/2009/Tran dtd 14/07/2009 is stands modified by GO(P) No.08/2017/Tran dtd 23/03/2017 and also the Clause[19] of the original scheme has been substituted and hence the Clause does not interdict the variation proposed. Vide judgment in above writ petition, the Hon'ble Court has directed this authority to reconsider the matter.

In compliance to the judgment of Hon'ble High Court of Kerala, this authority reconsidered the matter in detail. In this sitting also, so many objections have been raised by the public against the curtailment of trips from Kacherippady Jn to Ayyappankavu and Kumbalangy stating that the curtailment of existing trips will deprive the travelling benefits enjoyed by the public. This authority considered the objections and considered the application in the present position of law and notifications No.08/2017/Tran dtd 23/03/2017 pronounced the following.

1. Interest of the public is the prime consideration for the grant of a variation on existing regular permit. The existing benefits enjoyed by the public shall not be deprived of consequent to the variation of the permit. Hence curtailment of existing trips from Kacherippady to Ayyappankavu and Kumbalangy cannot be allowed. Moreover there is no necessity under rule 145(6) warranting for the grant of proposed curtailment.
2. At present applicant is permitted to operate service on the route Kumbalangy- Cheranelloor via Thoppumpady, Menaka and South

Chittoor with an issued regular permit . The portion of the existing route from Kacherippady to Kumbalangy which is 11 km in length is objectionably overlaps Trivandrum- Palakkad and Trivandrum-Kannur notified routes published by GO(P) No.42/2009/Tran dtd 14/07/2009 and further modified scheme vide GO(P) No.08/2017/Tran dtd 23/03/2017. ***As per Clause[4] of the modified scheme, the permits granted in the private sector as on 14/07/2009 are permitted to operate as Ordinary or Ordinary limited Stop Service as saved permits provided that further extension or variation shall not be allowed under any circumstance.*** The permit issued to the applicant is belongs to the classification of saved permit and the permit can be continued as such without any modifications such as further extension or variation. If the proposed variations are allowed, it will be clear violation of Clause[4] of the notification No.08/2017/Tran dtd 23/03/2017. Hence it cannot be allowed.

In view of the aforesaid facts and circumstances of legal impediments, application for the variation of saved permit by the notification No.08/2017/Tran dtd 23/03/2017 is hereby rejected.

Item No.11

1.Perused the judgment of Hon'ble STAT in MVAA No.259/2015 dtd 27/03/2017.

2.Heard the learned counsel represented the applicant and the learned Counsel represented the KSRTC. This is an application for variation of regular permit in respect of stage carriage KL-43-3548 operating on the route Thoppumpady-Pallithode as Ordinary service. By the proposed variation, the permit holder has desired for extension of service to Trippunithura, deviation of service through P.T Jacob Road, Cut trip between Thoppumpady and Trippunithura and Changing of starting and halting place to Chellanam. This authority in its earlier sitting held on 17/08/2015 considered the application and rejected the same on the grounds that, in the proposed extension,the portion from Trippunithura Bus stand to Trippunithura Junction which is 1.3 km in length and the portion

at BOT Bridge which is 700 metre in length are objectionably overlaps Ernakulam-Thekady and Trivandrum –Kannur notified schemes respectively published vide GO(P) No.42/2009/Tran dtd 14/07/2009 and the grant of proposed variation will be the clear violation of Clause[19] of the notification No.42/2009/Tran dtd 14/07/2009 and connected judgments in this regard. Moreover, the curtailment of existing trips from Thoppumpady to Pallithode and Chellanam to Thoppumpady will adversely affect the travelling public and there is no necessity under rule 145(6) warranting for the grant of proposed variation.

Against the above order, the permit holder preferred appeal before the State Transport Appellate Tribunal and vide judgment in MVAA No.259/2015 dtd 27/03/2017, the Tribunal allowed appeal in part with a direction to obtain a report from the field officer to ensure that the area is exclusively coming within the notification issued by the Government and total area covered exceeds the permissible overlapping. Hence directed this authority to reconsider the application afresh and pass orders in this regard.

In the light of direction issued by the Hon'ble Tribunal, this authority reconsidered the application for variation of permit considering the route length of proposed route and distance of overlapping on notified route and reveals the following.

1. The existing route is having length of 22.5 km and if the proposed variation is allowed, the route length will be changed to 35.7 km. As per the route enquiry report furnished by the field officer, in the proposed extension, the portion from Trippunithura Bus stand to Trippunithura Junction which is 1.3 km in length and the portion at BOT Bridge which is 700 metre in length are objectionably overlaps Ernakulam-Thekady and Trivandrum –Kannur notified schemes respectively published vide GO(P) No.42/2009/Tran dtd 14/07/2009[Now modified by GO(P) No.08/2017/Tran dtd 23/03/2017]. In total , the distance overlapping on notified routes comes to 2.00 km . As per Clause 5[C] of the above scheme, the private operator can overlap 5 km or 5% of the length of their own route, whichever is less on the notified routes, for the pupose of

intersection. If the route length of proposed route [35.7km] is considered, the permissible overlapping is 1.78 km. In this case, the overlapping is 2.00 km, which is beyond the permissible limit. Hence it cannot be allowed.

2. The curtailment of existing trips from Thoppumpady to Pallithode and Chellanam to Thoppumpady will adversely affect the travelling public. Interest of the public is the main factor for the grant of a variation on existing regular permit. The existing benefits enjoyed by the public shall not be deprived of consequent to the variation of the permit. Hence curtailment of existing trips cannot be allowed. Moreover there is no necessity under rule 145(6) warranting for the grant of proposed variation including the deviation through PT Jacob Road.
3. This authority felt that by the proposed variation, main intention of the permit holder is that only to revise the entire timings in the existing trips. Since there is no necessity Under Rule 145[7] warranting for the revision of timings, it cannot be allowed.

In view of the afore said facts and circumstances of legal impediments, application for the variation of permit is hereby rejected.

Item No.12

Heard; Adv. Stalin Peter Davis, the learned counsel represented the applicant and also the Counsel represented the KSRTC. This is an application for variation of regular permit in respect of stage carriage KL-42-6161 operating on the route Maliankara- Moothakunnam-Gothuruth- North Parur -High Court Jn as Ordinary moffusil service. By the proposed variation, the permit holder is desired to curtail the service between Maliakara to North Parur so as to avoid objectionable overlapping on Aluva-Vadakkumpuram complete exclusion scheme and he has requested to renew the permit on the modified route. This authority perused the file in detail. The enquiry officer has reported that there is curtailment of service between Maliakara to North Parur for a distance of 12.6 km for avoiding objectionable overlapping on notified route and there is no other variation in the primary permit. This authority considered the application in detail. As per the modified time schedule proposed by the permit holder, it is clear that in addition to the

above curtailment he has modified the route providing additional trips between Puthuvype and High Court Jn in the morning. The enquiry report and agenda submitted by the Secretary RTA will not specified the above additional trip. Therefore, the Secretary RTA shall look in to the matter and submit a detailed report and agenda in the next sitting without fail. Hence adjourned.

Item No.13

Heard; Adv.Jithesh Menon, the learned counsel represented the applicant and also the Counsel represented the KSRTC. This is an application for variation of regular permit in respect of stage carriage KL-07-AR-7754 operating on the route Ernakulam- High Court Jn- North Parur- Medical College as Ordinary moffusil service. By the proposed variation, the permit holder has desired to curtail three trips in between High Court Jn and Kalamassery Medical College and to provide additional trip between North Parur and Kakkanad and then to Cochin Special Economic Zone. This authority considered the application in detail. On perusal of the permit file in respect of the stage carriage KL-07-AR-7754, this authority felt that during the year 2015, this authority granted regular permit in favour of the applicant considering the need of direct service connecting High Court Jn and Kalamassery Medical College via container road. After an year on 19/12/2016, he has filed the present application for variation of above regular permit by curtailing three trips between High Court Jn and Kalamassery Medical College and two trips between High Court and North Parur with an intension to extend the service up to Kakkanad and CSEZ and to provide trip between Kakkanad and North Parur. The enquiry officer has reported that the curtailment of existing trips between High Court and Kalamassery Medical College and in between High Court and North Parur will adversely affect the travelling public . This authority felt that the disadvantage of curtailment outweigh the benefits of proposed extension of service to Kakkanad and CSEZ . Interest of the travelling public is the prime consideration for the grant of variation in existing service. The benefit accrued by the public shall not be deprived off consequent to the variation of a permit. In this case, the proposed variation is against the interest of public

and hence it cannot be allowed. Moreover there is no necessity warranted U/R 145[6] of KMV Rules-1989 for the proposed variation. Therefore the application of proposed variation is here by rejected.

Item No.14

Heard; Adv.K.T.Raveendran, the learned counsel represented the applicant and also the Counsel represented the KSRTC. This is an application for variation of regular permit in respect of stage carriage KL-38-E-9055 operating on the route Kuravilangad- Ernakulam as Ordinary moffusil service. This authority considered the matter in detail. The agenda submitted by the Secretary RTA is erroneous ,in which curtailed and variation portions are shown identical with difference in route length. The modified application in Form PVA as reported in the agenda is not made available in the permit file. Therefore, the Secretary RTA is directed to submit a detailed note specifying the required variation clearly with intermediate places of proposed curtailed and deviated route. Hence adjourned.

Item No.15

Heard; Adv.P.Deepak, the learned counsel represented the applicant and also the Counsel represented the KSRTC. This is an application for variation of regular permit in respect of stage carriage KL-17-6595 operating on the route Angamaly- Perumbavoor as Ordinary moffusil service. By the proposed variation, the permit holder has desired to change the Stating and halting place from Manjikkad to Angamaly by curtailing 1st and last trip between Manjikkad and Angamaly and vice versa and to curtail 2nd trip from Angamaly to Attara so as to deviate 2nd and 13th trips of service via Karukutty Kappela and Parappuram etc. This authority considered the application in detail and reveals the following.

1. The regular permit was issued during the year 1999 and the portions existing route from Perumbavoor to Angamaly and Angamaly to Karukutty Cable for a distance of 21.1 km are objectionably overlaps Kottayam-Kozhikode, Ernakulam- Palakkad and Ernakulam-Guruvayoor notified routes published vide GO(P) No.42/2009/ Tran dtd 14/07/2009 and further modified by GO(P) No.08/2017/Tran dtd

23/03/2017. ***As per Clause[4] of the modified scheme, the permits granted in the private sector as on 14/07/2009 are permitted to operate as Ordinary or Ordinary limited Stop Service as saved permits provided that further extension or variation shall not be allowed under any circumstance.*** The permit issued to the applicant during the year 1999 is belongs to the classification of saved permit and the permit can be continued as such without any modifications such as further extension or variation. If the proposed variations are allowed, it will be clear violation of Clause[4] of the notification No.08/2017/Tran dtd 23/03/2017. Hence it cannot be allowed.

2. The route enquiry officer has specifically reported that the proposed curtailment of trips in between Manjikkad and Angamaly in the 1st and last trip via Vattekkad and Moonnamparambu and curtailment of 2nd trip of the existing service between Angamaly and Attara will adversely affect the travelling public. Interest of the travelling public is the prime consideration for the grant of variation in existing service. The benefit accrued by the public shall not be deprived off consequent to the variation of a permit. In this case, the proposed variation is against the interest of public and hence it cannot be allowed. Moreover there is no necessity warranted U/R 145[6] of KMV Rules-1989 for the proposed variation.

In view of the aforesaid facts and circumstances of legal impediments, application for the variation of saved permit by the notification No.08/2017/Tran dtd 23/03/2017 is hereby rejected.

Item No.16

Heard; Adv.P.Deepak, the learned counsel represented the applicant. This is the application for the reconsideration of application for the renewal of regular permit in respect of stage carriage KL-06-G-182 on the route Mulamthuruthy- Trippunithura-Kakkanad- Kalamassery as ordinary moffusil service. The regular permit was issued on 31/08/2006 and the route is objectionably overlaps notified schemes published vide GO(P)

No.42/2009/Tran dtd 14/07/2009 . This authority in its earlier sitting considered the application for the renewal of permit in respect of the above vehicle and rejected the same as there is a legal impediments for the renewal of permits as specified in Clause[4] of the notification No.42/2009/Tran dtd 14/07/2009. However, the applicant was permitted to continue operation on the same route with successively issued temporary permits conditionally U/S 87[1] C of MV Act. Now the Government of Kerala have modified the above notification vide GO(P) No.08/2017/Tran dtd 23/03/2017. As per Clause[4] of the modified scheme,the regular permits granted in the private sector as on 14/07/2009 violating scheme of nationalization are permitted to operate as ordinary or ordinary limited stop service subject to compliance of rule 2[oa] of KMVR-1989 and subject to the condition that further extension or variation on these saved permits shall not be allowed under any circumstances.

In view of the modification of notification No.42/2009/Tran dtd 14/07/2009 by GO(P) No.08/2017/Tran dtd 23/03/2017, this authority considered the request for reconsideration of application for the renewal of permit in respect of stage carriage KL-06-G-182 and felt that the earlier rejection of application was based on the existence of legal impediments specified in Clause[4] of notification No.42/2009/Tran dtd 14/07/2009. The modified scheme published only on 23/03/2017,a date after the rejection of application for the renewal of permit. The modified scheme permitted the operation of applicants service, since the regular permit was granted and issued before 14/07/2009. Therefore, the renewal of permit is granted subject to the effect of conditions in Clause[4], Clause[5][a]&[b] of notification No.08/2017/Tran dtd 23/03/2017and 05/2017/Tran dtd 21/02/2017 and further fresh remittance of prescribed fee for the renewal of permit.

Item No.17

1.Heard; Adv. Jithesh Menon, the learned Counsel represented the applicant and the Counsel represented KSRTC. This is the application for the renewal of regular permit in respect of stage carriage KL-42-502 operating on the route Chemmayam- Vypin with cut trip between Vypin and

Elamkunnappuzha with extension to High Court Jn as Ordinary moffusil Service. The permit holder has not filed application within the time limit prescribed under Section 81[2] of MV Act,1988.

This authority elaborately considered the scope and applicability of the renewal of permit in the light of existing notifications and connected file. The regular permit was issued on 09/04/1997. The proposed route is having length of 37.8 km and the route will not objectionably overlaps notified schemes published vide GO(P) No. No.42/2009/Tran dtd 14/07/2009 and GO(P) No.08/2017/Tran dtd 23/03/2017 or other existing notified schemes. There is no impediment to renew the permit for continuous operation on the proposed route. Hence delay is condoned and renewal of regular permit is granted.

Item No.18

1.Heard the applicant and the Counsel represented KSRTC. This is the application for the renewal of regular permit in respect of stage carriage KL-06-G-1271 operating on the route Manjapra- Manjaly as Ordinary moffusil Service. This authority considered the application in detail.

The route is having length of 41.2 km in which the portion of the route from North Parur to Vedimara which is 1.5 km in length objectionably overlaps Aluva-Vadakkumpuram complete exclusion scheme. Judgments of Hon'ble High Court of Kerala in WP© No.4435/2011 and connected cases, prohibited the renewal of regular permit issued on Aluva-Vadakkumpuram Complete exclusion scheme reserved for the State Transport Undertaking. KSRTC also objected the renewal of permits on the portions of Aluva-Vadakkumpuram Scheme. Vide letter No.10689/B1/2014/Tran dtd 17/07/2014 the Government of Kerala has decided to formulate schemes under section 99 of the MV Act for making an objective assessment on the actual requirement of the KSRTC and in order to ensure sufficient travel facilities to the general public. Hence this authority is not able to take a decision in this situation. This authority is decided to wait for further orders from the government in this regard. Hence the application for the renewal of regular permit is adjourned.

2.The Secretary RTA is permitted to issue temporary permits in favour of the applicant to continue operation on the same route on public interest.

Item No.19

Heard; Adv.Adv. T.K Raveendran, the learned counsel represented the applicant. This is the application for the renewal of inter district regular permit in respect of stage carriage KL-36-B-1314 on the route Kaippuzhamuttu-Vaikom-Thoppumpady-Kaloor as LSOS. The regular permit was issued on 29/10/2002 and the route is objectionably overlaps notified routes. The route is an inter district one having route length 68.8km, in which 26.5 km and 2.5 km are lying under the jurisdiction of RTA Kottayam and RTA Alappuzha respectively. This authority considered the application in detail. The RTA Kottayam and RTA Alappuzha granted general concurrence up to 50km for the renewal of permit. As there is no legal impediment, the renewal of regular permit in respect of stage carriage KL-36-B-1314 on the route Kaippuzhamuttu-Vaikom-Thoppumpady-Kaloor as LSOS is granted subject to the conditions stipulated in the Clause[4] of notification No.08/2017/Tran dtd 23/03/2017.

Item No.20

1.Heard;Adv.Stalin Peter Davis, the learned counsel represented the applicant and the Counsel represented KSRTC. This is the application for the renewal of regular permit in respect of stage carriage KL-07-BB-2464 on the route Malavana Ferry- Eloor Ferry as Ordinary moffusil Service. This authority considered the application in detail.

The route is having length of 19.5 km in which the portion of the route from North Parur to Bharanimukku which is 3 km in length objectionably overlaps Aluva-Vadakkumpuram complete exclusion scheme. Judgments of Hon'ble High Court of Kerala in WP© No.4435/2011 and connected cases, prohibited the renewal of regular permit issued on Aluva-Vadakkumpuram Complete exclusion scheme reserved for the State Transport Undertaking. KSRTC also objected the renewal of permits on the portions of Aluva-Vadakkumpuram Scheme. Vide letter No.10689/B1/2014/Tran dtd 17/07/2014 the Government of Kerala has decided to formulate schemes under section 99 of the MV Act for making an objective assessment on the

actual requirement of the KSRTC and in order to ensure sufficient travel facilities to the general public. Hence this authority is not able to take a decision in this situation. This authority is decided to wait for further orders from the government in this regard. Hence the application for the renewal of regular permit is adjourned.

2.The Secretary RTA is permitted to issue temporary permits in favour of the applicant to continue operation on the same route on public interest.

Item No.21

1.Perused the Judgment of Hon'ble High Court of kerala in WP(C) No.15690/2017 and order in WP(C) No.23423/2017 dtd 14/07/2017

2.Heard; Adv.M.Jithesh Menon, the learned counsel represented the applicant. This is the application for the reconsideration of application for the renewal of regular permit in respect of stage carriage KL-06-B-4383 on the route Aluva- South Chittoor Temple as ordinary moffusil service. The regular permit was issued on 17/10/2008 and the route is objectionably overlaps notified schemes published vide GO(P) No.42/2009/Tran dtd 14/07/2009 . This authority in its earlier sitting considered the application for the renewal of permit in respect of the above vehicle and rejected the same as there is a legal impediments for the renewal of permits as specified in Clause[4] of the notification No.42/2009/Tran dtd 14/07/2009. However, the applicant was permitted to continue operation on the same route with successively issued temporary permits conditionally U/S 87[1] C of MV Act. Now the Government of Kerala have modified the above notification vide GO(P) No.08/2017/Tran dtd 23/03/2017. As per Clause[4] of the modified scheme, the regular permits granted in the private sector as on 14/07/2009 violating scheme of nationalization are permitted to operate as ordinary or ordinary limited stop service subject to compliance of rule 2[oa] of KMVR-1989 and subject to the condition that further extension or variation on these saved permits shall not be allowed under any circumstances. Now the Hon'ble High Court of Kerala vide judgment in WP(C) No.15690/2017 has directed this authority to consider the request filed by the permit holder for renewal of permit in the light of GO(P) No.08/2017/Tran dtd 23/03/2017 within a time frame.

In view of the modification of notification No.42/2009/Tran dtd 14/07/2009 by GO(P) No.08/2017/Tran dtd 23/03/2017, this authority considered the request for reconsideration of application for the renewal of permit in respect of stage carriage KL-06-B-4383 and felt that the earlier rejection of application was based on the existence of legal impediments specified in Clause[4] of notification No.42/2009/Tran dtd 14/07/2009. The modified scheme published only on 23/03/2017, a date after the rejection of application for the renewal of permit. The modified scheme permitted the operation of applicants service, since the regular permit was granted and issued before 14/07/2009. Therefore, the renewal of permit is granted subject to the effect of conditions in Clause[4], Clause[5][a]&[b] of notification No.08/2017/Tran dtd 23/03/2017 and further fresh remittance of prescribed fee for the renewal of permit.

3.The Secretary RTA is directed to consider the application for replacement of the vehicle in accordance with Rule 174 of KMVR-1989.

Item No.22

This is the application for the renewal of intra district regular permit in respect of stage carriage KL-07-AN-5859 on the route South Chittoor-Thevara Ferry-Nettoor as Ordinary City service. The applicant is absent. Hence adjourned to next sitting.

Item No.23

1.Heard; Adv.P.Deepak, the learned counsel represented the applicant. This is the application for the renewal of intra district regular permit in respect of stage carriage KL-17-A-6989 on the route Edakochi- Aluva as Ordinary City service. While considering the application by this authority in its earlier sitting held on 17/08/2016 ,the secretary RTA placed check reports booked against the stage carriage for the frequent curtailment of trips to western Kochi especially in the night. As there was an order of Hon'ble Human Right Commission not to renew the regular permits in respect of stage carriages, those are not conducting service as specified in the permit , this authority adjourned decision with direction to the Secretary RTA to verify the Order of Hon'ble Human Rights Commission dtd 08/02/2016 and feasibility of renewal of permit in respect of stage carriage KL-17-A-6989 . Now the

Secretary RTA has reported the present position of order of Hon'ble Human Rights Commission in HRMP No.11996/2015 dtd 08/02/2016. On perusal of the file, it revealed that five check reports were booked against the repeated curtailment of trips and violation of permit conditions. Out of above five check reports three check reports were disposed by the Secretary RTA by imposing fine in lieu of suspension of permit. But on frequent enquiry, the field officer has reported that the vehicle is still curtailing night trips violating permit condition and denying travelling facilities of the public. This authority felt that the permit holder is a habitual offender and he is purposefully violating the permit condition and curtailing permit without facilitating the travelling need of public. Therefore it is not required to renew the permit. The permit holder has explained that the curtailment of service was due to the ongoing works related to the Kochi Metro Rail and hence requested not to take any action on permit. This authority considered the explanation and felt that there were no circumstances to frequent curtailment of service. Moreover, based on the direction of this authority, the Secretary RTA conducted a frequent enquiry for 30 days to ascertain whether the vehicle is curtailing service regularly. The enquiry officer has reported that on verification of service of the stage carriage KL-17-A-6989 for a continuous period of thirty days, the vehicle is regularly curtailing night trips to Edakochi without any reason. It is a very crucial circumstance that even after the receipt of show cause notice, the permit holder repeated the curtailment of night service challenging the direction issued by the statutory authority. Therefore in the considered opinion of this authority, it is not necessary and there is no legality to renew the regular permit of stage carriage KL-17-A-6989 to operate violating time schedule and permit conditions. Therefore considering the repeated permit condition by the permit holder and in the light of order of Hon'ble Human Rights Commission in HRMP No.11996/2015 dtd 08/02/2016, the application for the renewal of regular permit is hereby rejected.

2. The Secretary RTA is directed to issue notice to the permit holder and place detailed note in the next sitting for the revocation of regular permit.

Item No.24

Heard; Adv.Jithesh Menon, the learned counsel represented the applicant. This is the application for the renewal of intra district regular permit in respect of stage carriage KL-44-A-5855 on the route Cheranelloor-Mannamthuruthu Ferry- Kodungalloor as Ordinary service. The applicant has not filed application within the time limit specified U/S 81 of MV Act.The regular permit was issued on 28/02/1997. The route is having length of 29km and the route is objectionably overlaps notified routes. This authority considered the application in detail. This authority satisfied with the reason offered by the permit holder for the delay in filing application. As there is no legal impediment, delay is condoned and the renewal of regular permit in respect of stage carriage KL-44-A-5855 on the route Cheranelloor-Mannamthuruthu Ferry- Kodungalloor as Ordinary service is granted subject to the conditions stipulated in the Clause[4] of notification No.08/2017/Tran dtd 23/03/2017 and remittance of Rs.5000/- being the fine for permitless operation.

Item No.25

Heard; Adv.T.K Raveendran, the learned counsel represented the applicant. This is the application for the renewal of inter district regular permit in respect of stage carriage KL-35-C-7431 on the route Ernakulam-Kanjirappally as LSOS. The regular permit was issued on 07/10/2002 and the route is objectionably overlaps notified routes. The route is an inter district one having route length 99 km, in which 48 km is lying under the jurisdiction of RTA Kottayam. This authority considered the application in detail. The RTA Kottayam granted general concurrence up to 50km for the renewal of permit. As there is no legal impediment, the renewal of regular permit in respect of stage carriage KL-35-C-7431 on the route Ernakulam-Kanjirappally as LSOS is granted subject to the conditions stipulated in the Clause[4] of notification No.08/2017/Tran dtd 23/03/2017.

Item No.26

1.Heard; Adv.Stalin Peter Davis the learned counsel represented the applicant. This is the application for the renewal of regular permit in respect of stage carriage KL-09-P-9099 on the route Thuruthippuram- Aluva-

Thadikkakkadavu- Mala as ordinary service. This authority considered the application in detail. On perusal of the file, it revealed that the portion of the route on which renewal of permit sought overlaps Aluva- Vadakkumpuram complete exclusion scheme. But the route enquiry report will not specify the same. Therefore the Secretary RTA is directed to obtain further route enquiry report from the field officer .

2. Request for delay in filing application is considered and delay is condoned as there was sufficient reason for the delay.

3. If there is no objectionable overlapping on Aluva- Vadakkumpuram complete exclusion scheme, the Secretary RTA is permitted to consider and renew the permit in accordance with law.

Item No.27

Heard; Adv.P.Deepak, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-07-AS-2491 on the route Mudamveli-Chellanam, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.28

Heard the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-07-AZ-710 on the route West Morakkala- Aluva- Trippunithura, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.29

Heard; Adv.M.Jithesh Menon, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-07-BG-1004 on the route Trippunithura- Kakkanad, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.30

Heard the learned counsel represented applicant. This is the application for the transfer of regular permit in respect of stage carriage KL-07-AM-2947 U/S 82[2] of MV Act consequent to the death of Sri.A.U.Mohanam who was the holder of regular permit 7/1011/1994. The applicant is the son of the deceased person and he has produced succession certificate proving he is the successor of the deceased person. The regular permit issued in respect

of the stage carriage KL-07-AM-2947 was expired on 08/10/2015 and application for the renewal of permit is pending for the clarification from the Government. Transfer of permit U/S 82[2] of MV Act in respect of S/C KL-07-AM-2947 on the route Kunjithai-Kodungalloor, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.31

Heard; Adv.Stalin Peter Davis, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-44-3790 on the route Edakochi-Pudukkalavattom- Perumannoor, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.32

Heard; Adv.T.K.Raveendran, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-07-AN-4203 on the route Kumbalangy South- Palarivattom, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.33

Heard; Adv.M.Jithesh Menon, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-07-AX-3128 on the route Ernakulam High Court Jn- North Parur- Thathappilly, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.34

Heard; Adv.M.Jithesh Menon, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-05-S-5795 on the route Mulankuzhy-Elavoor- Vallom Ferry, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.35

Heard; Adv.T.K.Raveendran, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-07-AT-6939 on the route Aluva- Manjapra, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.36

Heard; Adv.T.K.Raveendran, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-17-6382 on the route Pallithode- Mundamveli, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.37

Heard; Adv.T.K.Raveendran, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-17-M-6312 on the route Koothattukulam- Kaloor, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.38

Heard; Adv.P.Deepak, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-41-6364 on the route Aluva- Aluva[Circular], is allowed as applied for subject to the clearance of Government dues, if any .

Item No.39

Heard; Adv.Stalin Peter Davis, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-08-X-8010 on the route Vypin Ferry- North Parur- High Court Jn, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.40

Heard; Adv.Stalin Peter Davis, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-07-BK-8163 on the route Aluva- Fort Kochi, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.41

Heard; Adv.Stalin Peter Davis, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-05-AN-7779 on the route Pala- Ernakulam, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.42

Heard; Adv.T.K.Raveendran, the learned counsel represented both the transferor and proposed transferee. Transfer of permit in respect of S/C KL-

02-R-9936 on the route Angamaly- Anappara- Perumbavoor, is allowed as applied for subject to the clearance of Government dues, if any .

Item No.43

Heard; Adv.P.Deepak, the learned counsel represented the applicant. This is the application for the grant of fresh temporary permit for a duration of 4 months in respect of stage carriage KL-17-A-6919 or a suitable stage carriage on the route Parambayam- Infopark South Gate touching cIAL via Avanamcode, Neduvannoor, Chowara, Mahilalayam, Thottumugham, Cochin Bank Jn, NUALS, Med.College, HMT Jn, Seaport- Airport Road, Kakkanad and Kinfra as ordinary moffusil service. This authority considered the application in the light of report furnished by the route enquiry officer. The enquiry officer has reported that there exist necessity U/S 87[1]C of MV Act for the grant of temporary permit on the proposed route and the grant of permit will be beneficial to the public. Considering the report of route enquiry officer, temporary permit is granted for 4 months subject to settlement of timings.

Item No.44

1. Perused the judgment of Hon'ble High Court of Kerala in WP(C) No.19025/2017 dtd 08/06/2017

2. Heard; Adv.P.Deepak, the learned counsel represented the applicant. This is the application for the grant of fresh temporary permit for a duration of 4 months in respect of stage carriage KL-17-8139 or a suitable stage carriage on the route North Parur- Vyttila Hub by operating first three trips via Kongorppilly, FACT, Pathalam and remaining trips via Koonammavu, Cheriappilly, Varappuzha Bridge and Edappally as ordinary moffusil service. This authority in its earlier sitting held on 23/02/2017 considered the application in the light of route enquiry report furnished by the field officer. As the route enquiry officer reported that the area covering Varappuzha Bridge is an accident prone area and so many road accidents have been happened recently in that area due to the heavy vehicle flow and bad condition of road . Hence this authority directed the applicant to furnish a modified proposal providing entire trips via Kongorppilly, FACT and

Pathalam on public interest . But the applicant has not complied the above direction.

Now vide judgment in WP(C) No.19025/2017 dtd 08/06/2017 the Hon'ble High Court has directed this authority to consider the application for temporary permit submitted by the petitioner pertaining to order dtd 23/02/2017 and attain finality to the same de hors the modified proposal suggested by the RTA.

In compliance to the above order, this authority considered the application in detail. The applicant has proposed a route and time schedule containing 10 trips, in which three trips are provided via Kongorppilly, FACT, Pathalam and remaining seven trips via Koonammavu, Cheriappilly, Varappuzha Bridge and Edappally. The route enquiry officer has clearly specified that the area covering Varappuzha Bridge is an accident prone area and so many road accidents have been happened recently in that area due to the heavy vehicle flow and bad condition of road. Therefore the grant of new permit through an accident prone area cannot be allowed. Hence considering the aspects of road safety, the proposed application for temporary permit is hereby rejected on public interest.

Item No.45

Heard. This is the request of the Secretary, RTA, Alappuzha for the concurrence of this authority for the grant of variation of regular permit in respect of stage carriage KL-32-A-8601 for extending the service from Kumbalangy Ferry to Perumpadappu for a distance of 5.5 km which is coming under the jurisdiction of this authority. This authority considered the matter in detail. The route enquiry officer has reported that the Kumbalangy Bridge connecting Kumbalangy South and Ezhupunna is a new bridge and no stage carriages operating through the above bridge. He has also reported that the route portion lying under the jurisdiction of this authority will not objectionably overlaps notified routes published vide GO(P) No.42/2009/Trans dtd 14/07/2009 and further amended by G.O(P) No.08/2017/Tran dtd 23/03/2017. Therefore, Concurrence for the grant of proposed variation is granted subject to the effect of Clause[4] of notification No.42/2009 dtd 14/07/2009 and GO(P) No.08/2017/Tran dtd 23/03/2017.

The primary authority shall ensure that the proposed variation will not violate Clause[4] of the notification No.08/2017/Tran dtd 23/03/2017.

Item No.46

1.Perused the judgment of Hon'ble High Court of Kerala in WP(C) No.16413/2017

2. This is the request of the Secretary,RTA, Thrissur for the concurrence of this authority for the grant of fresh regular permit in respect of stage carriage KL-08-T-4108 or a Suitable stage carriage on the route North Parur- Azheekode via Munambam Kavala, Andippillikkavala, Moothakunnam, Kottappuram Toll Jn, Kodungalloor Bypass and Eriyad Chandha as Ordinary Moffusil Service. This authority considered the matter in detail. As per the report of route enquiry officer, portion of the proposed route from Moothakunnam Bridge to North Parur which is 8.1 km is lying under the jurisdiction of this authority and the route will not objectionably overlaps notified routes published vide GO(P) No.42/2009/Trans dtd 14/07/2009 and further amended by G.O(P) No.08/2017/Tran dtd 23/03/2017. Therefore, Concurrence for the grant of fresh regular permit as Ordinary service is granted on the proposed route subject to the effect of Clause[4] of notification No.42/2009 dtd 14/07/2009 and GO(P) No.08/2017/Tran dtd 23/03/2017 and restriction imposed by the State Transport Authority with regard to the age of stage carriages for the grant of fresh regular permit.

Item No.47

1.Perused the judgment of Hon'ble High Court of Kerala in WP(C) No.16413/2017

2. This is the request of the Secretary,RTA, Thrissur for the concurrence of this authority for the grant of fresh regular permit in respect of stage carriage KL-04-L-9993 or a Suitable stage carriage on the route North Parur- Azheekode via Munambam Kavala, Andippillikkavala, Moothakunnam, Kottappuram Toll Jn, Kodungalloor Bypass and Eriyad Chandha as Ordinary Moffusil Service. This authority considered the matter in detail. As per the report of route enquiry officer, portion of the proposed route from Moothakunnam Bridge to North Parur which is 8.1 km is lying

under the jurisdiction of this authority and the route will not objectionably overlaps notified routes published vide GO(P) No.42/2009/Trans dtd 14/07/2009 and further amended by G.O(P) No.08/2017/Tran dtd 23/03/2017. Therefore, Concurrence for the grant of fresh regular permit as Ordinary service is granted on the proposed route subject to the effect of Clause[4] of notification No.42/2009 dtd 14/07/2009 and GO(P) No.08/2017/Tran dtd 23/03/2017 and restriction imposed by the State Transport Authority with regard to the age of stage carriages for the grant of fresh regular permit.

Item No.48

Heard. This is the request of the Secretary,RTA, Alappuzha for the concurrence of this authority for the grant of fresh regular permit in respect of a Suitable stage carriage on the route Thuravoor- Cherthala-Vyttila via Thaikkattussery, Ottappunna, Thavanakkadavu and Poochackal, as Ordinary Moffusil Service. This authority considered the matter in detail. As per the report of route enquiry officer, 7.5 km of the proposed route is lying under the jurisdiction of this authority and the route will not objectionably overlaps notified routes published vide GO(P) No.42/2009/Trans dtd 14/07/2009 and further amended by G.O(P) No.08/2017/Tran dtd 23/03/2017. Therefore, Concurrence for the grant of fresh regular permit as Ordinary service is granted on the proposed route subject to the effect of Clause[4] of notification No.42/2009 dtd 14/07/2009 and GO(P) No.08/2017/Tran dtd 23/03/2017 and restriction imposed by the State Transport Authority with regard to the age of stage carriages for the grant of fresh regular permit.

Item No.49

Heard representative of private bus operator, KSRTC and all affected parties. This is the request for sanctioning of bus stops in front of Little Flower Hospital, Angamaly. The enquiry officer has reported that, at present the stage carriages operating from Angamaly towards Kalady are not stopping in front of Little Flower Eye Hospital and hence public are facing difficulties at large . He has recommended to sanction two bus stops at following places to overcome such difficulties.

1.Near Navaratna Super Market for the stage carriages proceeding to Angamaly Side.

2.At IN-OUT point of Little Flower Hospital in M.C Road for the stage carriages going toward Kalady side.

Considering the interest of the public and overcome the difficulties of blind patients, this authority hereby sanctioned two bus stops at above two places for stopping all classes of stage carriages including KSRTC.

Item No.50

1.Perused the judgment of Hon'ble High Court of Kerala in WP(C) No.16889/2017.

2.Heard; Adv.P.Deepak, the learned Counsel represented the applicant Sri.Shaju. This is the application for the replacement of the stage carriage U/R 174 of KMVR-1989 in respect of stage carriage KL-41-L-1017 of 2016 model with a very old stage carriage KL-17-E-997 of 2006 model. Vide judgment in WP(C) No.16889/2017 dtd 23/05/2017, the Hon'ble High Court of Kerala has directed this authority to consider the application in accordance with law within a time frame. This authority considered the application in detail.

Rule 174[2][C] of KMV Rules-1989 suggest that the authority may reject an application for the replacement of vehicle, wherein the incoming vehicle is older than the outgoing vehicle subject to discretion of power stated therein. This authority has examined the merits of the application for the replacement of the vehicle KL-41-L-1017 covered by a regular permit on the route Pattimattam- Kakkanad with a very old vehicle KL-17-E-997 in the light of comparison table of the both vehicles furnished by the applicant. The safety of the travelling public is the prime consideration for the grant of replacement of the vehicle . The proposed replacement with a very old vehicle will provide only detriment of public safety and convenience. This authority have also observed that the object of MV Act-1988 and Rules made there under is the safety of the public. While comparing two vehicles of 2016 model and 2006 model, the vehicle of 2016 model will be in better position regarding safety and there is considerable difference. Recently so many road accidents were reported in the media in

all over Kerala and the main reason for the accidents are the age of the vehicle and the lack of safety measures provided in the very old vehicle. This authority also understood that the old stage carriages can operate service up to the age of 15 years, but the replacement of a new vehicle 2016 model provided with more safety parameters by old vehicle of 2006 model having lesser safety standards will threat to the life of the travelling public and danger to the road safety aspects.

Having regard to the aforesaid circumstances and exercising the discretionary power under Rule 174[2]C, the application for the replacement of stage carriage KL-41-L-1017 with very old stage carriage KL-17-E-997 is hereby rejected on public interest.

Item No.51

Heard; Adv.P.Deepak, the learned Counsel represented the applicant Sri.Shaju. This is the application for the replacement of the stage carriage U/R 174 of KMVR-1989 in respect of stage carriage KL-56-F-243 of 2012 model with a very old stage carriage KL-07-AP-4885 of 2003 model.

This authority considered the application in detail. ***Rule 174[2][C] of KMV Rules-1989 suggest that the authority may reject an application for the replacement of vehicle, wherein the incoming vehicle is older than the outgoing vehicle subject to discretion of power stated therein.*** This authority has examined the merits of the application for the replacement of the vehicle KL-56-F-243 covered by a regular permit on the route Kakkanad-W/Island with a very old vehicle KL-07-AP-4885 in the light of comparison table of the both vehicles furnished by the applicant. The safety of the travelling public is the prime consideration for the grant of replacement of the vehicle . The proposed replacement with a very old vehicle will provide only detriment of public safety and convenience. This authority have also observed that the object of MV Act-1988 and Rules made there under is the safety of the public. While comparing two vehicles of 2012 model and 2003 model, the vehicle of 2012model will be in better position regarding safety and there is considerable difference. Recently so many road accidents were reported in the media in all over Kerala and the main reason for the accidents are the age of the vehicle and the lack of safety measures provided

in the very old vehicle. This authority also understood that the old stage carriages can operate service up to the age of 15 years, but the replacement of a new vehicle 2012 model provided with more safety parameters by old vehicle of 2003 model having lesser safety standards will threaten to the life of the travelling public and danger to the road safety aspects.

Having regard to the aforesaid circumstances and exercising the discretionary power under Rule 174[2]C, the application for the replacement of stage carriage KL-56-F-243 with very old stage carriage KL-07-AP-4885 is hereby rejected on public interest.

Item No.52

Heard; Adv.K.T .Raveendran, the learned Counsel represented the applicant Sri.Prince.N.B. The permit holder in respect of stage carriage KL-07-AH-6966 has requested to grant time of four months to replace the vehicle on completion of 15 years. He has intimate that another stage carriage will be offered within three months. Considering the request, extension of time up to 30/09/2017 is granted subject to the condition that ,if the permit holder has failed to replace the vehicle within the above period, the regular permit will stand revoked.

Item No.53

1.Perused the judgment of Hon'ble STAT in MVAA No.50/2017

2.Heard; Adv.K.T .Raveendran, the learned Counsel represented the applicant Sri.T.G. Satheesan. This is the application for the replacement of stage carriage KL-39-A-6822 of 208 model with a stage carriage KL-17-7173 of 2003 model. This authority initially on 22/12/2015 considered the application and rejected the same exercising the discretionary power Under Rule 174[2]C of KMV Rules-1989 and subsequently, the regular permit was revoked due to non production of suitable vehicle. Thereafter, Vide judgment in WP(C) No.7761/2016 , the Hon'ble High Court of Kerala had directed the authority to reconsider the application for replacement with stage carriage KL-17-7173 treating that the regular permit as being not revoked. In the light of above judgment, this authority reconsidered the matter on 17/08/2016 and directed the Secretary RTA to consider and take decision in accordance with the provisions of Rule 174 of KMVR-1989. Later,the

Secretary RTA considered the application and rejected the application on the ground that sub section 2[C] of Rule 174 of KMV Rules-1989 not satisfied and the decision was communicated vide Order No.C3/144121/2015/E dtd 07/01/2017.

The order of the Secretary RTA was challenged before the STAT and vide judgment in MVAA No.50/2017, the Hon'ble Tribunal has pronounced that the Sub Rule 2[c] of Rule 174 of KMV Rule specified that **"If the holder of permit has contravened the provisions thereof or has been deprived of possession of the old vehicle under the provisions of any agreement of hire purchase, hypothecation or lease."** . In view of the above findings directed this authority to reconsider the application.

In the light of above judgment, this authority reconsidered the application for the replacement of the vehicle . The sub Rule 2[c] of Rule 174 of KMVR ,clearly specified that , **Upon receipt of the application, the Transport authority may in his discretion, reject the application, "if the new vehicle proposed is older than the one sought to be replaced"** and Sub Section 2[d] of Rule 174 of KMVR-1989 specified that **"If the holder of permit has contravened the provisions thereof or has been deprived of possession of the old vehicle under the provisions of any agreement of hire purchase, hypothecation or lease"** .

This authority, felt that up to the year 2015, the existing sub Clause[2]d of Rule 174 of KMV Rules 1989 was numbered as clause[C] and vide GO(P) No.34/2005/Tran dtd 22-11-2005 the above clause renumbered as Clause[d] new condition **"if the new vehicle proposed is older than the one sought to be replaced"** was inserted as Clause[c]. Therefore no illegality occurred in the order of the Secretary RTA rejecting the application for the replacement.

However in compliance to the judgment of Hon'ble Tribunal in MVAA No.50/2017, this authority reconsidered the application in detail.

Rule 174[2][C] of KMV Rules-1989 suggest that the authority may reject an application for the replacement of vehicle, wherein the incoming vehicle is older than the outgoing vehicle subject to discretion of power stated therein. This authority has examined the

merits of the application for the replacement of the vehicle KL-39-A-6822 covered by a regular permit on the route Panangad- Kakkanad with a very old vehicle KL-17-7173 in the light of comparison table of the both vehicles furnished by the applicant. The safety of the travelling public is the prime consideration for the grant of replacement of the vehicle . The proposed replacement with a very old vehicle will provide only detriment of public safety and convenience. This authority have also observed that the object of MV Act-1988 and Rules made there under is the safety of the public. While comparing two vehicles of 2008 model and 2003 model, the vehicle of 2008 model will be in better position regarding safety and there is considerable difference. Recently so many road accidents were reported in the media in all over Kerala and the main reason for the accidents are the age of the vehicle and the lack of safety measures provided in the very old vehicle. This authority also understood that the old stage carriages can operate service up to the age of 15 years, but the replacement of a new vehicle 2008 model provided with more safety parameters by old vehicle of 2003 model having lesser safety standards will threat to the life of the travelling public and danger to the road safety aspects.

Having regard to the aforesaid circumstances and exercising the discretionary power under Rule 174[2]C of KMV Rules-1989, the application for the replacement of stage carriage KL-39-A-6822 with very old stage carriage KL-17-7173 is hereby rejected on public interest.

3.The Secretary RTA is directed brought the facts to the notice of Hon'ble Tribunal without further delay.

Item No.54

1.Perused the Check report booked against the stage carriage KL-17-A-6989 for violating permit condition.

2.Heard; Adv.P.Deepak, the learned Counsel represented the permit holder Sri.Sunilkumar. This authority in this sitting vide item No.23 considered the application for the renewal of regular permit in respect of the same vehicle and declined to renew the permit in the light of frequent permit violations reported by the field officer. Procedure for the revocation of permit is going

on. Therefore the secretary RTA is directed to serve a show cause notice to the permit holder in this regard and place the matter in the next sitting.

Item No.55

Heard; Adv.Stalin Peter Davis, the learned Counsel represented the applicant Sri.Varghese.P.O. The permit holder in respect of stage carriage KL-13-H-5699 has requested to grant time of 15 days to replace the vehicle on completion of 15 years. He has intimated that another stage carriage will be offered within that period. Considering the request, extension of time up to 15/08/2017 is granted subject to the condition that ,if the permit holder has failed to replace the vehicle within the above period, the regular permit will stand revoked.

Item No.56

Heard the permit holder of Autorickshaw bearing registration No.KL-43-D-287. This is the request for condonation of delay in producing No Objection Certificate from the financier, which is a mandatory requirement for the renewal of permit U/S 81 of MV Act-1988. This authority satisfied with the explanation offered by the permit holder for the inordinate delay in producing records for the renewal of permit. Therefore delay is condoned and renewal of permit is granted.

Item No.57

All actions taken by the Secretary RTA on behalf of the RTA are hereby ratified.

Item No.58

No Items

Item No.59

It is decided to conduct next sitting on 16/09/2017

Supplementary Item No.01

Perused the file and agenda. The Secretary RTA has requested to consider the objection filed by Sri.Arun David , 17B, Knights, Skyline Imperial Garden, Stadium Link Road, Kochi-25 against the unauthorized construction of bus shelter at Panampilly Nagar. The secretary RTA is

directed to conduct a detailed enquiry in this regard and place the matter in the next sitting. Hence adjourned.

Supplementary Item No.02

Heard the learned counsel represented the applicant. This is the application for the renewal of regular permit in respect of stage carriage KL-32-F-1713 on the route Cherthala- Kaloor as Ordinary service. The regular permit was issued on 14/05/2002 and the route is objectionably overlaps notified routes. This authority in its earlier sitting considered the application and adjourned decision seeking concurrence of RTA Alappuzha. Now, the sister RTA has granted concurrence for the renewal of this inter district permit. As there is no legal impediment, the renewal of regular permit in respect of stage carriage KL-32-F-1713 on the route Cherthala- Kaloor is granted subject to the conditions stipulated in the Clause[4] of notification No.08/2017/Tran dtd 23/03/2017.

Supplementary Item No.03

1.Perused the judgment of Hon'ble High Court of Kerala in WP(C) No.16212/2017.

2.Heard; Adv.P.Deepak, the learned counsel represented the applicant. This is the application for the renewal of inter district regular permit in respect of stage carriage KL-17-M-1684 on the route Erattupetta- Kaloor as LSOS. The regular permit was issued on 27/03/2007 and the route is objectionably overlaps notified routes. This authority in its earlier sitting considered the application and adjourned decision seeking concurrence of RTA Kottayam. Now, the permit holder has produced a copy of the judgment of Hon'ble High Court of Kerala in WP(C) No.16212/2017 dtd 16/05/2017, wherein the Hon'ble Court has directed this authority to consider the application for the renewal of permit in the light of judgment in WP(c) No.1786/2017, wherein the Hon'ble Court observed that for the purpose of renewal of permit, fresh concurrence of sister RTA need not be insisted upon .

In the light of above judgment, this authority reconsidered the application in detail. The Government of Kerala have modified the notification 42/2009/Tran dtd 14/07/2009 vide GO(P) No.08/2017/Tran

dtd 23/03/2017. As per Clause [4] of the modified scheme, the regular permits granted in the private sector as on 14/07/2009 violating scheme of nationalization are permitted to operate as ordinary or ordinary limited stop service subject to compliance of rule 2[oa] of KMVR-1989 and subject to the condition that further extension or variation on these saved permits shall not be allowed under any circumstances. The modified scheme permitted the operation of applicants service, since the regular permit was granted and issued before 14/07/2009. Therefore, the renewal of permit is granted subject to the effect of conditions in Clause[4], Clause[5][a]&[b] of notification No.08/2017/Tran dtd 23/03/2017 .Hence the judgment of Hon'ble High Court of Kerala is complied with.

Supplementary Item No.04

1.This is the application for the renewal of intra district regular permit on the route Thaqdees Hospital Edathala- Eramalloor as Ordinary moffusil service. This authority considered the application in detail. The regular permit in question was issued in favour of Sri. Vinuraj Vijayan, Venattil House, palluruthy.P.O, Kochi in respect of his stage carriage KL-43-E-3997 to operate regular service on the route Thaqdees Hospital Edathala- Eramalloor as Ordinary moffusil service. Subsequently the permit holder replaced the vehicle with a later model stage carriage KL-07-BX-7380 which possessed under lease agreement for a duration of five years from 28/05/2016 between the permit holder and the registered owner of stage carriage KL-07-BX-7380 one Mri. Ajas Jebbar. Thereafter on expiry of regular permit on 20/08/2016, Sri. Ajas Jebbar, has filed an application for the renewal of permit issued in favour of Sri. Vinuraj Vijayan on the route Thaqdees Hospital Edathala- Eramalloor. Since Sri.Ajas Jebbar is not entitled to apply for the renewal of permit, the Secretary RTA issued notice to the permit holder and to Sri. Ajas Jebbar with direction to appear for a personal hearing. Even though the permit holder has acknowledged the hearing notice, he has not turned for the hearing and hence the application for the renewal of permit is stands long pending. Therefore the Secretary RTA has placed the application before this authority for the disposal.

In this sitting, Adv. P.Deepak, the learned counsel appeared for the applicant Sri.Ajas Jebbar. But the permit holder has not appeared in this sitting also. On consideration of the application this authority felt that the applicant Sri.Ajas Jebbar, has no right to apply for the renewal of permit issued in favour of Sri.Vinuraj Vijayan and not entitled to get the renewed permit. Hence the application filed by Sri.Ajas Jebbar is liable to be rejected.

2.Since Vinuraj Vijayan, who is the permit holder has not applied for the renewal, and not filed application for the temporary permit after the expiry of regular permit .At the same time Sri. Ajas Jebbar, the registered owner was operated service on the strength of temporary permits with stage carriage KL-07-BX-7380 on filing application. Considering the above circumstances, this authority suspect that the possession of KL-07-BX-7380 is still with the registered owner of Sri.Ajas Jebbar and lease agreement executed between the permit holder and Ajas Jebbar became infructuous. Therefore the regular permit issued in favour of Sri. Vinuraj Vijayan is became invalid with effect from 21/08/2016, the date of expiry of permit. Hence the non operational permit and the permit in the suspended animation cannot be renewed.

Therefore, this authority hereby rejected the application filed by Sri.Ajas Jebbar for the renewal of regular permit owned by Sri. Vinuraj Vijayan.

3.The Secretary RTA is directed to issue show cause notice to permit holder for the non operation of service and place the matter in the next sitting to revoke the regular permit.

Supplementary Item No.05

1.Perused the judgment of Hon'ble High Court of Kerala in WP(C) No.22477/2017.

2.The applicants are absent. However in compliance to the judgment of Hon'ble High court of Kerala in WP(C) No.22477/2017, this authority considered the applications in detail. These are the applications for the renewal of regular permit and transfer of permit in respect of stage carriage KL-05-AE-9178 on the route Kumily- Konnakkad as Limited Stop ordinary

Service. Initially, the regular was granted as Super Express service and subsequently, in the light of legal impediments in the GO(P) No.73/2013/Tran dtd 16/07/2013, this authority denied to renew the permit as Super Class service. Thereafter in view of the GO(MS) No.45/2015/Tran dtd 20/08/2015, the permit holder applied for the renewal of permit as LSOS. On consideration of the above application , this authority sought concurrence of sister authorities for the renewal of permit as LSOS with effect from the date of expiry of permit. Hence the application for the renewal of permit is still pending. Thereafter, on 13/12/2016, the permit holder and Sri. Justin.K.George, Kottamparambil House, Ayarkunnam.P.O, Kottayam have jointly applied for the transfer of permit in to the name of Sri.Justin K.George. This authority in its sitting held on 23/02/2017 considered the application and adjourned decision till the renewal of regular permit as there is no provision in the MV Act and Rules made there under to transfer of an invalid permit. Now, vide judgment in WP(C) No.22477/2017 dtd 07/07/2017, the Hon'ble High Court has directed this authority to reconsider the applications in the light of Judgment in WP(c) No.1786/2017, wherein the Hon'ble Court observed that for the purpose of renewal of permit, fresh concurrence of sister RTA need not be insisted upon .

In compliance to the judgment of Hon'ble High Court, this authority reconsidered the applications for renewal of permit and transfer of the permit in detail. The route Kumily- Konnakkad on which regular permit is granted is having length of 540 km. The regular permit was issued during the year 1997. As per Clause[4] of the notification published vide GO(P) No.08/2017/Tran dtd 23/03/2017, ***"the permits granted in the private sector as on 14/07/2009 will be permitted to operate as Ordinary or Ordinary Limited Stop Service. The maximum distance prescribed in the Rule 2(oa) in the Kerala Motor Vehicles Rules-1989 shall apply to these saved permits"*** .

As per Rule 2(oa) of KMV Rules-1989, ***"Ordinary limited Stop Service means a service, which is operated on a route having a distance of not exceeding 140km with limited number of stops, having atleast one stop in every fare stage"***.

In this case, the route length is 540 kilometer and the permit holder has applied for the renewal of permit as Ordinary Limited Stop Service. The permit is coming under the classification of saved permit, but not complied with the Rule 2(oa) of KMV Rules-1989. Hence the permit cannot be renewed as Ordinary Limited Stop Service. But, if the permit holder has filed application for limiting the route length within 140km by curtailment, this authority will reconsider the application and there is no impediment to renew the permit without securing concurrence of the sister authorities.

3. Since the renewal of permit cannot be granted due to legal impediments, the application for the transfer of permit cannot be finalized in this situation. Hence adjourned.

4. As there exist legal impediment to comply the judgment of Hon'ble High Court of Kerala in WP(C) No.22477/2017, the Secretary RTA is directed to file review petition specifying the present position of law and incapability of the respondents.

Sri.K. Mohammed.Y.Safirulla, I.A.S
The District Collector& Chairman,RTA
Ernakulam

Sri.K.G.Samuel
The Deputy Transport Commissioner
[Law] Central Zone-II,Ernakulam &
Member,RTA Ernakulam



Secretary
Regional Transport Authority
Ernakulam