

**DECISION OF REGIONAL TRANSPORT AUTHORITY MUVATTUPUZHA
HELD ON 19-05-2018**

**Present:(1)Sri.Mohammed Y Safirulla. I.A.S.-District Collector & Chairman
 RTA Muvattupuzha.
 (2)Sri. M P Ajithkumar-Deputy Transport Commissioner-CZ-II,
 Ernakulam &Member RTA Muvattupuzha.**

Item No-1

Heard ,the representative of KSRTC . This is an application filed for fresh regular permit in respect of stage carriage KL-15 -9168 to operate on the route Kothamangalam-Ernakulam-Vadattupara- Kuttampuzha and Paingottoor (Via) Perumbavoor, Aluva, Pothanikkad and Keerampara as ordinary service. This is an intra district route having route length of 107 km. The applicant is STU and the offered vehicle complies the condition of age of vehicle preferred by this authority for granting fresh regular permit. Hence regular permit is granted to KL-15 -9168 on the applied route with proposed set of timings.

Item No-2

Heard; Adv.Stalin Peter Davis, the learned Counsel represented the applicant Sri.Jips Mathew ,representative of KSRTC and the objector. This is an application for the grant of fresh regular permit in of a 2010 model or suitable stage carriage with seating capacity not less than 33 in all to operate on the route Paingottoor- Kothamangalam (Via) Pothanikad, Koovallloor, Pallarimangalam, Adivad, Kodamunda, Kuthukuzhy as ordinary moffusil service . The proposed route is an intra district route having route length of 33 km and no overlapping reported with any of the notified schemes. The main objections raised in the meeting are related with proposed timings. Hence regular permit on the proposed route is granted to a stage carriage not older than eight years subject to the production of current records of the vehicle within the time limit specified U/R 159[2] KMVR-1989 and subject to settlement of timings .

Item No-3

Perused the judgment of honble High court in WP(c)14941 of 2018 dated 04/05/2018 and heard; Adv.Jithesh Menon, the learned Counsel represented the applicant Sri.P M Vijayan , and representative of KSRTC. This is an application filed for fresh four month temporary permit in respect of S/c KL 04 Q 2025 to operate on the route Pothanikad- Ernakulam as LSOS in the vacancy of KL 17 D 3322.

This authority considered the matter in detail. RTA held on 20/01/2018 considered the application and adjourned, for want of a specific route enquiry report with details of overlapping ,since KSRTC strongly objected the grant alleging excessive overlapping.

Again the matter was take up for consideration by circulation in compliance of Judgment of the Hon'ble High Court in WP(c) 11060 of 2018 dtd 28/03/2018 but adjourned for placing in an open RTA as there was strong objections of the STU regarding the grant .

It is reported in the route enquiry report that , in connection with the functioning of Vyttila Mobility Hub , the entry of private LSOS services from Kothamangalam and Perumbavoor side restricted and diverted to Vyttila Hub from Edappally jn through By pass.

The counsel of the applicant stated that in the return trip also the service is intend to operate from Vyttila Hub to Edappilly through the same route of travel ie,(via) Palarivattom by pass) and hence the overlapping is only 2 km. Considering this the total route length will be 58.2 km and the overlapping of 2 km is permissible. The field officer also reported that there is only few stage carriages conducting service to Ernakulam (Via) Pukkattupady from Pothanikad . Further in the produced judgment in WP(c)14941 of 2018 dated 04/05/2018 , the hon'ble court has directed to consider and dispose the application of temporary permit and grant , if there is no legal impediment. KSRTC and other operators objected the proposed timings stating that the service of the route bus KL 17 D 3322 has been stopped four years ago and number of new services being operating through the sector.

In this circumstances , four month temporary permit granted to the applicant subject to the production of current records of the vehicle and subject to settlement of timings .

Item No-4

Heard; Adv.Stalin Peter Davis, the learned Counsel represented the applicant Sri.Babu Abraham ,representative of KSRTC and the objector. This is an application for the grant of fresh four month temporary permit in respect of S/c KL 09 P 3777 or suitable stage carriage with seating capacity not less than 38 in all to operate on the route Nadukani-Kothamangalam-Perumbavoor- Muvattupuzha and Vadattupara (Via) Kanjiramkunnu, Ayyappanmudi, Puthuppady, Odackaly, Cheladu, and Chakkimedu as ordinary mofussil service. This authority considered the matter in detail. There is no temporary need reported by the field officer warranting the grant of a temporary permit.

More over the hon'ble High court vide judgments in WP© 30359 of 2017 dtd 17/10/2017 and also in WA no 993 of 2017 dtd 15/06/2017 clearly clarified the provisions that should be followed in the consideration of temporary permits. The hon'ble court says “ for the grant of temporary permits, the authorities are required to consider the conditions stipulated in Section 87 of MV act and only if one or other of those conditions is satisfied, then for a limited period stipulated in the said section temporary permit can be granted”. Hence application for fresh four month temporary permit on the route Nadukani- Kothamangalam-Perumbavoor- Muvattupuzha and Vadattupara is rejected.

Item No-5

Perused the judgment of honble High court in WP(c)10113 of 2018 dated 28/03/2018 and heard; Adv.Jithesh Menon, the learned Counsel represented the applicant Smt Mary Eldho , and representative of KSRTC. This is an application filed for variation of regular permit in respect of stage carriage KL 17 P 1675 on the route Ernakulam-Piravom – Koothattukulam (Via) Thripunithura, Puthiyakavu, Nadakavu, Mulamthurithy, Piravom and Edayar as Ernakulam-Piravom –Koothattukulam by limiting the last trip from Koothattukulam at Piravom and intend to operate from Piravom at 5 am to Ernakulam (Kaloor) without changing the other timings.

This authority in the meeting dated 20/01/2018 considered the application and rejected since the permit is a saved permit as per the notification No.08/2017/Tran dtd 23/03/2017. But in the produced judgment of hon'ble High court in WP(c) 10113/2018 dtd 28/03/2018 , the court set aside the decision of RTA and directed to consider and pass orders with notice to KSRTC . The hon'ble court viewed in the reported judgment in WP(c) 4188 of 2018 that

concerned Regional Transport Authorities shall consider the request of the variation in case there is no variation or extension is sought for on the notified routes, the same shall be taken up and considered, in accordance with the provisions of Section 80(3) of the Motors Vehicles Act, 1988. In the instant case the counsel of the applicant stated that, there is only trip arrangement and it will not cause any hardship to the commuters, while it will be beneficial for both the operator and travelling public. Hence the applied variation is granted subject to settlement of timings.

Item No-6

Heard; Adv.Stalin Peter Davis, the learned Counsel represented the applicant Sri.Hamsa. This is an application filed for variation of regular permit in respect of S/C KL 44 1541 operating on the route Kottappady-Kothamangalam- Perumbavoor and Muvattupuzha as ordinary service. This authority considered the application in the light of enquiry report and connected file and existing notifications.

This application was considered by this authority earlier on 23/09/2017 and adjourned for want of a specific route enquiry report regarding the effect of curtailment. It is reported that, the curtailment in the proposed variation, ie from Odackaly-Panachiyam-Kottappady-Panipra- Irumlapady in the 3rd trip and from Kannakkada to Kottappady in the 8th trip will adversely affect the passengers. Hence the application for variation of permit is rejected.

Item No-7

Applicants absent. Hence adjourned.

Item No-8

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 58 A 666 operating on the route Kothamangalam-Thripunithura. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-9

Applicants absent. Hence adjourned.

Item No-10

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 17 A 1989 operating on the route Kadappara-Perumbavoor- Vyttila Hub. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-11

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/c KL 40 M 253 operating on the route Ernakulam-Muvattupuzha. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-12

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 07 BY 7817 operating on the route Muvattupuzha-

Aluva. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-13

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 40 H 5805 operating on the route Perumbavoor-Muvattupuzha. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-14

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/ C KL 17 D 8991 operating on the route Charupara-Perumbavoor. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-15

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 05 V 8604 operating on the route Ayavana-Muvattupuzha- Koothattukulam. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-16

Heard ; the applicants. This is an application for transfer of permit in respect of S/C KL 17 A 2887 operating on the route Kothamangalam- Perumbavoor Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-17

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C C KL 17 A 606 operating on the route Inchathotty-Perumbavoor. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-18

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/ C KL 07 BS 9250 operating on the route Karimugal-Aluva-Kolencherry. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-19

This is the request of secretary RTA Idukki for the grant of fresh regular permit in respect of stage carriage KL 44 9005 or suitable vehicle with seating capacity not less than 48 in all to operate on the route Pooppara- Ernakulam Vyttila Hub (Via) Rajakkad, Adimaly, Kothamangalam and Perumbavoor, Chamberakky, Pukkattupady and Kakkanad as LSOS.

As per the report of the MVI Muvattupuzha a distance of 46 Km from Neriamangalam to South Vazhakulam comes under the jurisdiction of this authority. It is also reported that the route portion from Perumbavoor(Kalady Jn) to Palakkattutazham a distance of 1.5 km overlaps with the notified scheme Aluva- Kattappana.

Hence concurrence is granted without prejudice to the right of the primary authority to decide the nature of service depending on the route length and subject to the effect of clause 5(c) of notification published vide GO(p) 08/2017/Trans dated 23/03/2017.

Item No-20

This is the request of secretary RTA Idukki for the grant of fresh regular permit in respect of stage carriage KL 44 C 5175 or vehicle with seating capacity not less than 48 in all to operate on the route Vyttila Hub- Munnar (Via) Medical Centre, Alinchuvadu, Kakkanad, HMT, Medical College, Cochin Bank Jn, South Vazhakulam, Perumbavoor, Kothamangalam and Adimaly as LSOS

As per the report of the MVI Muvattupuzha a distance of 46 Km from Neriamangalam to South Vazhakulam comes under the jurisdiction of this authority. It is also reported that the route portion from Perumbavoor(Kalady Jn) to Palakkattutazham a distance of 1.5 km overlaps with the notified scheme Aluva- Kattappana.

Hence concurrence is granted without prejudice to the right of the primary authority to decide the nature of service depending on the route length and subject to the effect of clause 5(c) of notification published vide GO(p) 08/2017/Trans dated 23/03/2017.

Item No-21

This is the request of secretary RTA Idukki for granting renewal of regular permit in respect stage carriage KL 44 C 7917 to operate on the route Aluva- Kattappana (Via) South Vazhakulam, Perumbavoor, Kothamangalam, Neriamangalam, Neendapara, Cheruthony and Idukki as LSOS

As per the report of the MVI Muvattupuzha a distance of 57 Km from Neendapara to South Vazhakulam comes under the jurisdiction of this authority. It is also reported that the route portion from Perumbavoor(Kalady Jn) to Palakkattutazham a distance of 1.5 km overlaps with the notified scheme Aluva- Kattappana.

Hence concurrence is granted without prejudice to the right of the primary authority to decide the nature of service depending on the route length and subject to the effect of clause 5(c) of notification published vide GO(p) 08/2017/Trans dated 23/03/2017.

Item No-22

Heard Adv. K V Jithesh Menon , the learned counsel represented the applicant Smt Siji Joshy. This is a request of the applicant to grant the fresh regular permit , on the route Eco tourism- Vadakkumpilly- Perumbavoor as ordinary moffusil service, to S/c KL 40 G 9133 in the light of STA decision as well as the decision of RTA Muvattupuzha on age of stage carriages.

This authority considered the matter in detail. RTA, Muvattupuzha in its sitting dtd 17/11/2016 rejected the fresh regular permit application submitted by the applicant to operate on the route Eco tourism- Vadakkumpilly- Perumbavoor as ordinary service, since she failed to produce a suitable vehicle which satisfies the condition of age proffered by this authority in the earlier sittings. Mean while temporary permits were availed on the above

route in the light of various judgments of hon'ble courts and last TP thus issued was expired on 03/10/2017.

The decision regarding the age of stage carriages was challenged by some of the applicants through writ petitions before hon'ble High court and the hon'ble court , in a common judgment in WP© 33980 of 2015, directed the STA to take a decision to the maximum age of the vehicles to be used for conducting ordinary stage carriage services, since it is a matter affecting the stage carriage operators throughout the State. It is also directed that revised orders on the applications preferred by the petitioners for grant of permits shall be passed by the Regional Transport Authorities concerned, if situation warrants after the decision of the State Transport Authority.

Mean while State Transport Authority in its meeting held on 14/06/2017 decided to fix the age limit for the stage carriages in applying and granting fresh regular permits as 8 years for ordinary services. According RTA Muvattupuzha also uphold the decision of STA.

Here the applicant produced the particulars of stage carriage KL 40 G 9133 , which is a 2012 model vehicle and requested to grant the regular permit to the offered vehicle. Considering all these facts and perusing the connected files, this authority feels that, in the instant case the applicant is not a petitioner in WP© 33980 of 2015 or connected cases so as to pass revised order on the fresh permit application as ordered by the hon'ble court after the decision of the State Transport Authority, if situation demands the same.

In the present circumstances , this authority is in view that the applicant has a ready vehicle which complies the condition of age preferred by the STA and considering the public interest towards the introduction of a new service, fresh regular permit is granted to the applicant to his proposed vehicle KL 40 G 9133 on the route Eco tourism- Vadakkumpilly- Perumbavoor subject to the remittance of fee for fresh permit and settlement of timings.

Item No-23

Heard Adv.Stalin Peter Davis, the learned counsel represented the applicant Sri Sugathan. This is an application for allowing extension of time to replace the existing vehicle with a later model one , since the route bus KL 17 4182 attained the age limit of 15 years on 04/05/2018. The regular permit is seen valid up to 07/01/2021 on the route Kanjiravely-Kothamangalam, and this authority feels that withdrawal of a service from any route will adversely affect the common public.

Hence on the aspect of public interest, the request of the permit holder is allowed and granted a maximum time of four months to replace with a later model vehicle failing which the regular permit is liable to be revoked.

Item No-24

Heard Adv.G Prabhakaran, the learned counsel represented the applicant Sri Abraham Mathew. This is a request for allowing maximum time for production of current records of a new or suitable stage carriage for availing the fresh regular permit, granted by this authority in its sitting dtd 20-01-2018 to operate on the route Arakkunnam- Perumbavoor.

Request of the permit holder is allowed and granted a maximum time of four months as per Rule 159[2] of KMV Rules 1989 for the production of current records of a suitable vehicle ,failing which the regular permit is liable to be revoked.

Item No-25

Heard Adv. Stalin Peter Davis, the learned counsel represented the applicant Sri Anil Paul. This is a request for allowing maximum time for production of current records of a suitable vehicle for availing the fresh regular permit, granted by this authority in its sitting dtd 20-01-2018 in respect of stage carriage KL 11 Z 4635 or suitable vehicle with seating capacity not less than 33 in all to operate on the route Panamkuzhy- Perumbavoor as ordinary service.

Request of the permit holder is allowed and granted a maximum time of four months as per Rule 159[2] of KMV Rules 1989 for the production of current records of a suitable vehicle, failing which the regular permit is liable to be revoked.

Item No-26

Perused the records. This is a request for sanction shifting of existing bus stop at Okkal to a distance of 50 meter apart towards Perumbavoor as per the direction of hon'ble Kunnathunad Taluk Legal Services Society. Hence sanction is accorded for the proposed shifting of bus stop for public convenience and also on road safety aspects.

Item No-27

Perused the check reports and connected files. The Heavy Goods vehicle KL 17 L 3109 is registered in the name of Sri Baiju Joseph, S/O T K Joseph, Thekkekara House, Mannathoor P O Thirumarady, Pampakuda, Muvattupuzha with valid Goods Permit up to 05/02/2019. It is reported that Two check reports are found active against the vehicle prepared by field officers of neighbouring offices and consequently charge memos were issued to the permit holder. The check reports are related with over load which is violation of Section 113[3] read with section 194 of MV Act.

But the permit holder neither give any explanation nor taking the option to compound the offence under section 86[5] of the MV Act 1988 by paying compounding fee in lieu of the suspension of permit. Then after charge memo in Performa II was also issued to the permit holder, but he hasn't provide any reply in this regard.

It is reported that as per Clause 25[C] of Circular no 17/2011, issued by Transport Commissioner, direction was given to all Regional Transport officers and Joint Regional Transport Officers of the state to take action on pending check reports by way of placing before the concerned Regional Transport Authority to take actions such as Suspension or Cancellation of permit U/S 86 of MV Act 1988.

In the present case, the permit holder as well the registered owner of heavy goods vehicle KL 17 L 3109 is not seen desirous to use chances given to him to remit the compounding fee as per the provisions of the motor vehicles act & rules presently ruling the field.. It is also understood the check reports, were booked against carrying of overload and it reveals that the permit holder is a repeated offender. This authority felt that the action of the permit holder is not in good sense and unwillingness to remit compounding fee is too scurrilous to the departmental procedures and laws.

Considering the gravity of offence committed by the permit holder U/S 194 read with 113 of MV Act, the permit issued to the Goods Vehicle is liable to be Suspended or Cancelled under section 86 of MV Act 1988. Any how the permit holder has given an opportunity to remit an amount as compounding fee of 33,000/- failing which the permit issued to the Goods Vehicle KL 17 L 3109 will stand suspended for a period of one month

with effect from 01/07/2018 as per Sec 86(1) of MV act. The Joint Regional Transport Officer Muvattupuzha will endorse the suspension period in the permit and watch the service of the vehicle in the period of suspension ,without fail.

Further this authority feels that , as the delegates are empowered to take action under section 86 of MV act, the concerned RTO/Joint RTO shall initiate action in similar pending cases of check reports as per law.

Item No-28

Ratified.

Item No-29

Next meeting will be conducted on 21/07/2018.

Item No-30

Nil.

Sd/-

M P Ajithkumar

Deputy Transport Commissioner
CZ-II & Member RTA Muvattupuzha

Sd/-

Muhammed Y Safirulla I.A.S.

District Collector &
Chairman-RTA Muvattupuzha.