

(2012) 06 KL CK 0045
In the High Court Of Kerala
Case No : Writ Petition (C) No. 13748 of 2012

A. Sunil Raj

APPELLANT

Vs

The Secretary, Regional Transport Authority, Palakkad
678001

RESPONDENT

Date of Decision : 18-06-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 87(1)(c), 87(1)(d)

Citation : (2012) 06 KL CK 0045

Hon'ble Judges : K.Surendra Mohan, J

Bench : Single Bench

Advocate : Ambika, Sri. Sajeew Kumar and K. Gopal Radhakrishnan, for the Appellant; P.P. Padmalayan, for the Respondent

Judgement

K.Surendra Mohan, J.—The petitioner is the stage carriage operator who was conducting services on the route Palamukku-Palakkad Via-Ayaloor, Kaippancherry, Nemmara, Koodalloor, Pallavoor-Kakkayur and Koduvayur on the strength of a regular permit with stage carriage bearing registration No.KL-09/K-34. Though the petitioner's permit had expired, he did not apply for renewal of the same within the prescribed time. However, later on he has applied for renewal with a petition for condonation of the delay. The same is pending consideration of the Regional Transport Authority. In the above circumstances, the petitioner has submitted Ext.P4, an application for the issue of a temporary permit u/s 87(1)(c) of the Motor Vehicles Act, 1988 ("the Act" for short). The petitioner complains that his application for temporary permit has not been considered till date.

2. According to the counsel for the petitioner, his application for the issuance of temporary permit being u/s 87(1)(c) of the Act can be considered by the respondent, irrespective of whether he had applied for the renewal of the regular permit within the prescribed time or not. This is for the reason that a temporary need is in existence since his regular service is not operating. Therefore, he

seeks the issue of appropriate directions to the respondent to consider and pass orders on Ext.P4. The counsel for the petitioner also relies on the decision of a Division Bench of this Court in Moideenkutty.P.C. & others Vs. Secretary and Another 2012(2)KHC 317 and submits that an application for the issue of a temporary permit u/s 87(1)(d) cannot be considered until the R.T.A. condones the delay in submitting an application for renewal. However, the said restriction does not apply in the case of an application for the issue of a temporary permit u/s 87(1)(c), it is pointed out.

3. I have considered the contentions raised by the counsel for the petitioner as well as the learned Government Pleader.

4. It is the specific case of the petitioner that Ext.P4 is an application submitted u/s 87(1)(c) of the Act. If so, the said application can be considered irrespective of whether an application for renewal submitted by the petitioner is pending or not. The issue of temporary permit u/s 87(1)(c) would have to depend on an assessment as to whether there is a temporary need in existence. Apart from making such an inquiry, no other consideration is necessary to be taken into account while considering an application u/s 87(1)(c). The decision reported in 2012 (2) KHC 317 (supra) does not refer to the consideration of an application u/s 87(1)(c). Therefore, there cannot be any doubt regarding the proposition that Ext.P4 application would have to be considered by the respondent, if there is a temporary need in existence. Therefore, the same shall be considered and appropriate orders shall be passed without further delay. The Writ Petition is accordingly disposed of directing the respondent to consider the application for temporary permit submitted by the petitioner, Ext.P4, in accordance with law and appropriate orders shall be passed thereon as expeditiously as possible, within a period of ten days of the date of receipt of a copy of this judgment.