

**DECISION OF REGIONAL TRANSPORT AUTHORITY MUVATTUPUZHA  
HELD ON 20-01-2018**

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

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**Item No-1**

Heard; Adv.Stalin Peter Davis,the learned Counsel represented the applicant Sri.Priyadarsan and counsels represented the objectors. This is an application for the grant of fresh regular permit in respect of a 2009 model or suitable stage carriage with seating capacity not less than 38 in all to operate on the route Ayavana- Avolichal (Via) Randar, Muvattupuzha, Kothamangalam, Oonnukal, and Neriamangalam as ordinary moffusil service. The proposed route is an intra district route having route length of 46 km . There is an overlapping of 02 Km from BOC Jn to Private bus stand Muvattupuzha with Aluva- Kattappana notified scheme which is in the permissible limit of overlapping preferred in the GO(p) No 42/209 dated 14/07/2009 & GO(p) No 8/2017/Tran dated 23/03/2017. The objections raised in the meeting are related with proposed timings.

The counsel of the applicant intimated that the applicant is willing to produce a suitable stage carriage not older than eight year as specified by the RTA if the applied regular permit is granted. Vide reported decision in Aboobacker Vs RTA[2005][1]KLT987 the Hon'ble High Court had clarified that furnishing of particulars of the vehicle in the application itself is not mandatory.

Therefore the 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-2**

Heard; Adv.Stalin Peter Davis,the learned Counsel represented the applicant Sri.Anil Paul and counsel represented the objector. This is an application for the grant of fresh regular permit in respect of S/c KL 11 Z 4635 or suitable stage carriage with seating capacity not less than 33 in all to operate on the route Panamkuzhy- Perumbavoor (Via) Kuruppampady, Vengoor and Kombanad as ordinary moffusil service. The proposed route is an intra district route having route length of 18 km and no overlapping reported with any of the notified schemes.The main objections raised in the meeting are related with proposed timings. Another objection is against the age of the offered vehicle KL 11 Z 4635 which is 2006 model stage carriage. The counsel of the applicant intimated that the applicant is willing to produce a suitable stage carriage not older than eight year as specified by the RTA if the applied regular permit is granted. Vide reported decision in Aboobacker Vs RTA[2005][1]KLT987 the Hon'ble High Court had clarified that furnishing of particulars of the vehicle in the application itself is not mandatory.

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**

Heard; Adv.Stalin Peter Davis,the learned Counsel represented the applicant Sri.Shamsudheen and counsels represented the objectors. This is an application for the grant of fresh regular permit in respect of a 2009 model or suitable stage carriage with seating capacity not less than 38 in all to operate on the route Pinavoorkudy- Muvattupuzha touching Vettampara and Anakkayam (Via) Kuttampuzha, Thattekkad, Chelad , Kothaanglam, Mathirappally and Puthuppady as ordinary moffusil service. The proposed route is an intra district route having route length of 52 km . There is an overlapping of 02 Km from BOC Jn to Private bus stand Muvattupuzha with Aluva- Kattappana notified scheme which is in the permissible limit of overlapping preferred in the GO(p) No 42/209 dated 14/07/2009 & GO(p) No 8/2017/Tran dated 23/03/2017. The objections raised in the meeting are related with proposed timings.

The counsel of the applicant intimated that the applicant is willing to produce a suitable stage carriage not older than eight year as specified by the RTA if the applied regular permit is granted. Vide reported decision in Aboobacker Vs RTA[2005][1]KLT987 the Hon'ble High Court had clarified that furnishing of particulars of the vehicle in the application itself is not mandatory.

Therefore the 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 4**

Heard; Adv.Stalin Peter Davis ,the learned Counsel represented the applicant Sri. Sugathan and counsels represented the objectors. This is an application for the grant of fresh regular permit in respect of a new or suitable stage carriage with seating capacity not less than 38 in all to operate on the route Avolichal, Kanjiravely- Perumbavoor (Via) Neriamangalm , Kothamangalm and Kuruppampady as ordinary moffusil service. The proposed route is an inter district route having route length of 52 km out of which 10 kms lies underer the jurisdiction of RTA Idukki. Being a fresh regular permit application , Secretary RTA is directed to call concurrence of RTA Idukki in accordance with sub rule (2) of rule 171of KMV rule 1989 with details of overlapping and width of the road . Hence **adjourned**.

### **Item No-5**

Heard; the learned Counsel represented the applicant Sri. Abraham Mathew and counsels represented the objectors. This is an application for the grant of fresh regular permit in respect of S/c KL 40 H 5805 to operate on the route Arakkunnam- Perumbavoor (Via) Edakkattuvayal, Oliyapuram, Vattappara, Peppathy, Piravom, Kakkad, Kottappuram, Kolencherry, Mazhuvannoor,Valamboor, Valayanchirangara, Thuruthipilly, Allapara, Vengola,Pattimattom and kadayiruppu as ordinary moffusil service. The proposed route is an intra district route having route length of 75.4 km out of which 7.4 km lies under the jurisdiction of RTA Ernakulam.

There is an overlapping of 200 mtrs reported at Perumbavoor town with Aluva- Kattappana scheme. The route also intersect at Kolencherry town with Ernakulam- Muvattupuzha scheme.

This authority in the sitting dated 17/05/2017 considered the application and adjourned for want of the decision of STA regarding the maximum age of the vehicles to be used for conducting ordinary stage carriage services. STA as well as RTA has decided to fix the age as eight years for ordinary motor services. Now the applicant requested to consider his permit application in the light of the above decision and offered S/c KL 40 H 5805 which is a 2012 model vehicle. The main objections raised in the meeting are related with proposed timings. The learned counsel Adv. G Prabhakaran represented the permit holder of S/c KL 07 AN 6880 alleged that the route passing through the notified route Muvattupuzha-Ernakulam and it will violate GO(p) 05/2017/Tran dated 21/02/2017. But as per the report of the field officer, there is an inevitable intersection at Kolencherry town. STU has not pointed out any such objection other than time clash with the proposal.

Another allegation is that the offered vehicle KL 40 H 5805 is covered by an other regular permit and it is reported that the offered vehicle was replaced with KL 12 C 1112 , hence it is permit less. The field officer recommended the grant stating that the route connecting remote areas of Piravom with adjacent Panchayaths, hence will be beneficial to the travelling public and students.

Hence regular permit on the proposed route is granted to the offered vehicle KL 40 H 5805 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 6**

Heard; Adv. Stalin Peter Davis ,the learned Counsel represented the applicant Sri. P M Vijayan and representative of STU. This is an application for the grant of 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. The proposed route is passing through the jurisdiction of RTA Ernakulam also .Representative of STU alleged that the route overlaps with the Trivandrum- Kannur scheme and Aluva Kattappana scheme hence violates the conditions preferred in GO(p) 8/2017/Tran dtd 23/03/2017. The enquiry report from the field officer is not seen self explanatory regarding the details of overlapping . Hence the application is adjourned directing Secretary RTA to obtain a specific route enquiry report with details of overlapping for consideration in the next sitting.

#### **Item No 7**

Heard the representative of the applicant . This is an application for temporary permit for a period of one year Under proviso to Section 104 of MV Act in respect of 2012 model or suitable stage carriage with seating capacity not less than 33 in all to operate on the route Oonnukal- Piravom (Via) Pareekkanni, Koottamvely, Pallarimangalam, Adivadu, Varappetty, Puthuppady, Karakkunnam, Kakkadaserry, Muvattupuzha, Ambalappady, Rackadu, Ooramana, Ramamangalam and Kakkadu as ordinary service.

This authority considered the matter in detail. Even though the application filed is U/s 104 of MV act the proposed route is not lies completely through the notified routes.

As per the judgments of Hon'ble High Court in W.A 1943/2012 and 1957/2012 prohibit the grant of permits whether temporary or regular so as to overlap offending the provisions of scheme. The route in question, a distance of 5.5 kms objectionably overlapping on Muvattupuzha- Ernakulam notified scheme. Vide judgments cited above the division bench of Hon'ble High Court has ordered that once a scheme in force and the overlapping is permitted only to a certain extent, it is not possible to grant temporary permits based on the proviso to section 104 of MV Act.

It is also specified by the Hon'ble Court that the benefit of the proviso to Section 104 can be granted only in instances where there is scheme and no permits have been issued in such routes. In this case, the route objectionably overlapping on Muvattupuzha- Ernakulam notified scheme and permits have been issued to the STU on the entire route. Therefore the proposed temporary permit application under proviso to Section 104 cannot be granted hence rejected.

#### **Item No 8**

Heard; Adv. G Prabhakaran, 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 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 considered the application in detail in the light of the report of route enquiry officer and existing Government notifications and reveals the following.

The regular permit was issued during the year 1999 and portion of the route overlaps with Ernakulam- Thekkady notified scheme 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 like extension or variation. If the proposed variation is 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. KSRTC strongly objected the proposed variation in the light of said notification.

Hence application for the variation of saved permit by the notification No.08/2017/Tran dtd 23/03/2017 is hereby rejected

#### **Item No 9**

Heard; 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 G 4575 on the route Angamaly-Muvattupuzha(Via) Kalady and Perumbavoor and desired to be vary the starting and halting as Mannoor insted of Perumbavoor by avoiding the last trip to Perumbavoor as ordinary service.

This authority considered the application in detail in the light of the report of route enquiry officer and existing Government notifications and reveals the following.

The counsel of the applicant stated that the last trip is not economical due the lack of passengers and crews are also belongs to the proposed halting place of Mannoor.

The regular permit was issued during the year 2005 and portion of the route overlaps with Aluva- Kattappna notified scheme 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 2005 is belongs to the classification of saved permit and the permit can be continued as such without any modifications like extension or variation. If the proposed variation is 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.

The route enquiry officer has specifically reported the curtailment of trip will adversely affect the early morning passengers from Manoor to Perumbvaoor (Via) Vengola and Valayanchirangara .

Regional Transport Authority is a statutory authority constituted for the consideration of applications in accordance with Motor Vehicles Act and Rules made there under. In this case, vide notification 08/2017/Tran dtd 23/03/2017, the Government have prevented any variations on regular permit granted on notified routes or portion thereof before 14/07/2009. Therefore, the proposed variation cannot be allowed on the aspect of public interest and laws presently ruling the field. Moreover KSRTC strongly objected the proposed variation in the light of said notification.

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 10**

Heard; the learned counsel represented the applicant and also the Counsel represented the KSRTC. This is an application for renewal of regular permit and conversion of class of service as LSOS in respect of S/C KL 17 K 5796 to operate on the route Thulappally –Emakulam (Kaloor)(Via) Kanjirappally, Erattupetta, Melukavu, Thodupuzha, Muvattupuzha, Kizhakambalam, Pallikkara, Kakkanad and Kaloor.This authority in the sitting dated 22/12/2015 considered the application and adjourned for want of concurrence from sister RTAs. RTA Idukki and Kottayam were granted concurrence for renewal of this permit and Secretary RTA Pathanamthitta has forwarded a route report for the portion of the route lies under that jurisdiction in the light of decision of STA dated 14/06/2017.

This authority elaborately considered the scope and applicability of the renewal of permit in the light of existing notifications and connected file . This is an inter district route having route length of 138 km. The regular permit was issued during the year 1990.

Vide GO(p) No-8/2017/Tran dated 23/03/2017 government have modified the scheme related with 31 notified routes by allowing the permits granted in the private sector as on 14/07/2009 will be permitted to operate as ordinary or LSOS . The maximum distance as per Rule 2 (oa) in KMV rules is 140 km and in the instant case it is 138 km .

Hence renewal of regular permit and conversion of class of service as LSOS are granted subject to the effect of clause (4) of notification No. 42/2009/Tran dtd. 14.7.2009 further modified by GO(P) No.08/2017/Tran dtd 23/03/2017 with list stops proposed by the field officer and settlement of timings as per the decision of STA vide order D3/875/STA/2005 dated 04/01/2018 in department item no-1.

**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 41 C 36 is covered by a regular permit on the route Muvattupuzha- Velloor Railway Station . 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 17 A 5545 is covered by a regular permit on the route Pooyamkutti- Muvattupuzha- Pinavoorkudy. 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 07 BD 505 is covered by a regular permit on the route Perumbavoor- Ernakulam. 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 40 F 3921 is covered by a regular permit on the route Vadakkampilly - Aluva. 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 04 P 3026 is covered by a regular permit on the route Perumbavoor – Malayattoor- Adivaram- Kalady. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

**Item No 16**

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 44 7513 is covered by a regular permit on the route Vadattupara- Perumbavoor- Pinavoorkudy. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

**Item No 17**

This is the request of secretary RTA Idukki for granting fresh regular permit in respect of a new or suitable stage carriage to operate on the route Munnar- Aluva(Via) Anachal, Adimaly, Neriamangalm, Kothamangalam, Perumbavoor and South Vazhakulam as LSOS.

As per the report of the MVI Muvattupuzha a distance of 48 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 18**

This is the request of secretary RTA Idukki for granting fresh regular permit in respect of stage carriage KL 63 A 1012 to operate on the route Bisonvalley- Kothamangalm touching Rajakkad (Via) Kunchithanny, Adimaly and Neriamangalam as ordinary service.

As per the report of the MVI Muvattupuzha a distance of 20 Km from Neriamangalam to Perumankandam comes under the jurisdiction of this authority. There is no overlapping with any of the notified scheme .

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 19**

This is the request of secretary RTA Kottayam for granting fresh regular permit in respect of stage carriage KL 33 3199 to operate on the route Manarkadu-Koothattukulam (Via) Ayarkunnam, Ettumanoor, Kuravilangadu, Elanji, VISAT, Edayar and Kizhakombu as ordinary service.

As per the report of the MVI Muvattupuzha a distance of 17 Km from Koothattukulam to Cherumthadam (Via) Edayar,VISAT and Elanji comes under the jurisdiction of this authority. There is no overlapping with any of the notified schemes.

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 granting renewal of regular permit in respect stage carriage KL 40 H 2677 to operate on the route Aluva- Kattappana (Via) South Vazhakulam Perumbavoor , Kothamangalam, Neriamangalm, Neendapara and Cheruthony as LSOS.

As per the report of the MVI Muvattupuzha a distance of 58 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 21**

Heard Adv.G.Prabhakaran, the learned counsel represented the applicant Sri Mahinkunju. This is an application for allowing extension of time to replace the existing vehicle with a later model one, since the route bus KL 06 B 6600 attained the age limit of 15 years on 02/01/2018. The regular permit is seen valid up to 01/06/2019 on the route Perumbavoor- Puthukkalavattom, 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 22**

Perused the judgment of hon'ble High court in W A No-1466 of 2017 in WP© No-19513 of 2017. The Hon'ble Division Bench of High Court has ordered that no restrictions can be imposed by the RTA or its delegate for the replacement since the Section 83 of MV Act will not impose such restriction.

Even though Rule 174(2)(C) of KMV Rules clearly stipulates that the new vehicle proposed should not be older than the vehicle sought to be replaced, but the hon'ble court pointed out that Section 83 predicates replacement of the vehicle by vehicle of the same nature. Accepting the finding of hon'ble High court in the true spirit this authority delegates Secretary RTA to effect replacement applications considering the road worthiness and vitality of the incoming vehicle rather than its model, until further orders in this matter or amendment of Rule 174 of KMV Rules 1989.

**Item No-23**

Ratified.

**Item No-24**

Next meeting will be conducted on 17/03/2018.

**M P Ajithkumar**

Deputy Transport Commissioner  
CZ-II & Member RTA Muvattupuzha

**A.V George I.P.S**

District Police Chief  
(Ernakulam rural) & Member  
RTA Muvattupuzha

**Muhammed Y Safirulla I.A.S.**

District Collector &  
Chairman-RTA  
Muvattupuzha.