

## Supplementary Item No: 1

### Agenda

1. To peruse the judgment dated 23.07.2020 in WP(C) NO.14847/2020 of Hon'ble High Court of Kerala.
2. To Peruse the Judgment dated 05.06.2020 in MVAA No.39/2020 of Hon'ble State Transport Appellate Tribunal ,Ernakulam.
3. To consider the request dtd. 02.06.2015 seeking **renewal** of permit on the modified curtailed route Palakkad – Pattambi by the applicant relinquishing all claims to the original route **Palakkad - Guruvayur** Via Pattambi, Kulappulli, Ottapalam, Pathirippala and Parli as L.S.O.S issued as per Permit No- C6/10/2006/P valid up to 30/06/2011 in respect of former route bus **KL-08-AJ-9550**, whose renewal of permit application was earlier rejected by RTA Palakkad dated 29.07.2011 vide item no.23 for want of counter signature from RTA Thrissur.

**Applicant:** Smt.Sudha Sasikumar W/o Sasikumar, Balakrishna Motors, Guruvayur.

With notice to .

- 1.Sabu Varghese,S/o Varghese,Cheravattom House, Mangadu(PO),Pazhanji,Thrissur.
- 2.P.V Ramakrishnan,S/o Velayuadhan,Padiyankattil House,Kundannur(PO). Kumbalangad.  
Vadakkancherry.
- 3.C.A Abraham,S/o Abraham,612Mayooram,Mayilvahanam,Shornur,Palakkad-679121.

(Refer. Decision of RTA Dated 29.07.2011 in item No.23

Decision of RTA Dated 24.12.2019 in item No.32 )

C4/7867/2020/P Dated.22/06/2020

## Notes:

The permit in respect of the permit holder's vehicle no.KEH 781 on the route Guruvayur – Palakkad expired on 09.08.2005.Then, an application for fresh regular permit in the vacancy of vehicle KEH 781 in the route Guruvayur – Palakkad via Pattambi, Kulappully, Ottapalam, Pathiripala, Parli was submitted on 01.10.2005. Application for renewal of permit was submitted in respect of S/C KEH 781 in the very same route on 24.10.2005. Both applications ( renewal application and also application for fresh permit) considered together by the RTA Palakkad. Rejecting the renewal application, regular permit granted in favour of the permit holder in the route Guruvayur – Palakkad subject to counter signature by sister RTA Thrissur.

Later, the regular permit was issued in respect of stage carriage KL-08-AJ-9550 to the applicant on 20/06/2006, subject to counter signature from RTA Thrissur.

Total Route length - 92 km. The permit covers 73 km in Palakkad district and 19 km in Thrissur district. The portion of the above route lying in Palakkad district from Pattambi to Kulappully 12 km is overlapping with notified route Thiruvananthapuram – Kannur, likewise the portion of the route in Thrissur district from Guruvayur to Pattambi 33 km is objectionably overlapping with notified route Kozhikkode – Guruvayur. Hence, the route objectionably overlaps with the notified route for a distance of 45 km in the total route length of 92 km. The permit was valid upto 19.06.2011.

On 17.06.2011, the permit holder filed a belated application for renewal of permit with request to condone delay in submitting the application for renewal of permit. Also applied for temporary permit u/s 87(1)(d) of MV Act,1988 for a period of four months. Though the applicant had submitted that no counter signature was obtained from sister RTA, Thrissur, the temporary permit was applied on the entire route Guruvayur – Palakkad. On 04.07.2011, the applicant informed Secretary, RTA that they had conducted service only in Palakkad district for the entire 5 years, since no counter signature was obtained from RTA Thrissur. She also requested to issue temporary permit limiting area of operation in Palakkad district only. The vehicle was held under HPA. Form 35 also produced from the financier.

RTA Palakkad considered both the application for renewal of permit and temporary permit and rejected them as per the below given decision in its meeting held 29.07.2011 vide item no.23.

*“Heard, perused the copy of Judgment in WP(C) No.18664/2011 dtd.15.07.2011 of Hon’ble High Court of Kerala produced by the counsel for the applicant and considered the application for renewal of permit in respect of stage carriage KL 08 AJ 9550 and application for temporary permit u/s 87(1)(d) of MV Act,1988 on the route Guruvayur – Palakkad.*

*The permit was issued on 20.06.2006 on the route Guruvayur – Palakkad, ie prior to 09.05.2006, subject to counter signature of RTA Thrissur. The permit holder did not*

*obtain counter signature from RTA Thrissur even after the expiry of regular permit. According to the applicant the service was operated during the entire period of validity between Palakkad and Pattambi, which lies in Palakkad district. The portions of the route in Palakkad district on a distance of 25.3 km and in Thrissur district on a distance of 19 km, total 43.3 km overlap on the notified route. The RTA Thrissur rejected the counter signature due to the overlapping on the notified route.*

*As per the section 88(1) of MV Act 1988, a permit granted by RTA of one region shall not be valid in any other region unless the said permit has counter signed by the RTA of that other region. The permits are issued for a specific route and the permit is sought to be renewed there should be a valid permit for operation throughout the route. A validity existed permit on specific route and when the permit is sought to be renewed there should be a valid permit for operation throughout the route. A validity existed permit on specific route alone can be renewed u/s 81(1) of MV Act. If counter signature from the authority of a particular region is not obtained, in respect of a permit on a route, it cannot be said that the permit is valid on that region and thereby the said permit not valid permit for operating on entire route. In this case, the counter signature from RTA Thrissur was necessary to make the permit entirely valid. There for this permit No.C6/10/2006/P issued on 22.06.2006 on the route Guruvayur – Palakkad cannot be considered as the validity existed regular permit renewable u/s 81 of MV Act and clause 4 of notification G.O.(P) No.42/2009/Tran dated 14.07.2009. **Hence, the application for renewal of permit is rejected.***

***As the renewal application is rejected, the temporary permit application u/s 87(1)(d) is not sustainable hence rejected.”***

Challenging the above decision, the applicant preferred MVAA No.315/2011 before the Hon'ble STAT Ernakulam and temporary permit was issued u/s 87(1)(c) of MV Act 1988, on the basis of various orders of Hon'ble STAT.

Meanwhile, the stage carriage attached to the regular permit on the above route ie KL-08-AJ-9550 was issued with clearance certificate to the Joint RTO Ottapalam on 12.10.2012 by keeping the above regular permit under suspended animation on the basis of the Order of Hon'ble STAT Ernakulam in MP No.668/2012 dtd.24/07/2012 in MVAA No.315/2011.

Later, the Hon'ble STAT in its final Judgment dated 24.07.2014 directed to re-consider the application for renewal of permit and temporary permit filed by her on the route Palakkad – Pattambi after affording an opportunity of being heard the appellant as well as the KSRTC. Then the matter was considered and rejected by RTA by circulation on 24.10.2014 on the ground that there was objectionable overlapping on the route and also there was no urgent temporary need on the route Guruvayur – Palakkad.

On 20.04.2015, the applicant submitted an application for replacing the former route bus KL 08 AJ 9550 by the stage carriage KL 41 A 1979 (which was later issued clearance certificate to SRTO, Irinjalakkuda on 04.06.2018, since the vehicle was sold).

On 26.02.2016, he produced the copy of the Judgment in WP(C ) No.33910/2014 dated 29.09.2015 in which it is stated that, the petitioner asserts that the same is in consonance with decision of RTA dated 24.10.2014 and the order dated 24.07.2014 of Hon'ble STAT Ernakulam. It is also directed to RTA Palakkad to consider the application dated 02.06.2015 for renewal of the existing permit on the modified route with notice to the petitioner and KSRTC, in the next meeting of RTA.

On 04.11.2019, the permit holder produced the Judgment dated 25.10.2019 in WP(C) No.28037/2019 (D) of Hon'ble High Court of Kerala, Ernakulam, in which the judgment directed to RTA Palakkad to take a decision on the application for renewal of permit on the modified curtailed route Pattambi – Palakkad in the light of the Judgment in WP(C ) No.33910/2014 dated 29.09.2015 within a period of six months, considering his representation dated 09.10.2019 (received on 19.10.2019) addressed to DTC Thrissur.

In compliance to the above order of Hon'ble High Court of Kerala, renewal application was placed in the RTA meeting dated 24.12.2019 in item NO.32 and the following decision was taken

Perused the Judgment dated 25.10.2019 in WP(C) No.28037/2019 (D) of Hon'ble High Court of Kerala, Ernakulam.

2.Heard. This is to consider the request dtd. 02.06.2015 seeking renewal of permit on the modified curtailed route Palakkad – Pattambi by the applicant relinquishing all claims to the original route Palakkad - Guruvayur Via Pattambi, Kulappulli, Ottapalam, Pathirippala and Parli as L.S.O.S issued as per Permit No-C6/10/2006/P valid up to 30/06/2011 in respect of former route bus KL-08-AJ-9550, whose renewal of permit application was earlier rejected by RTA Palakkad dated 29.07.2011 vide item no.23 for want of counter signature from RTA Thrissur.

From the records, the following facts are revealed:-As the permit in respect of the permit holder's vehicle no. KEH 781 on the route Guruvayur – Palakkad expired on 09.08.2005, an application for fresh regular permit in the vacancy of vehicle KEH 781 in the route Guruvayur – Palakkad via Pattambi, Kulappully, Ottapalam, Pathiripala, Parli was submitted on 01.10.2005. The application for renewal of permit was submitted in respect of S/C KEH 781 in the very same route on 24.10.2005. Both applications (renewal application and the application for fresh permit) were considered together by the RTA Palakkad dt.25.05.2006 in item no.5. Rejecting the renewal application, the RTA granted regular permit in favour of the permit holder on the route Guruvayur – Palakkad subject to counter signature by sister RTA Thrissur.

Later, the regular permit was issued to the applicant on 20/06/2006 in respect of stage carriage KL-08-AJ-9550

on production of current records, subject to counter signature from RTA Thrissur.

The permit covers 73 km in Palakkad district and 19 kms in Thrissur district out of the total route length of 92 km. The portion of 12 km of the above route lying in Palakkad district from Pattambi to Kulappully overlaps with notified route Thiruvananthapuram - Kannur, likewise the portion of 33 kms of the route in Thrissur district from Guruvayur to Pattambi is objectionably overlapping with notified route Kozhikkode - Guruvayur. Hence, the route objectionably overlaps with the notified route for a distance of 45 kms in the total route length of 92 km. So, the RTA Thrissur rejected the counter signature due to the overlapping on the notified route.

Later, the RTA Palakkad in its meeting held 29.07.2011 vide item no.23 considered the application for renewal of permit but rejected it owing to the following grounds:

*Though the regular permit was issued to the applicant on 20/06/2006, subject to counter signature from RTA Thrissur, the permit holder did not obtain counter signature from RTA Thrissur even after the expiry of regular permit on 19.06.2011. According to the applicant the service was operated during the entire period of validity between Palakkad and Pattambi, which lies in Palakkad district.*

*As per the section 88(1) of MV Act 1988, a permit granted by RTA of one region shall not be valid in any other region unless the said permit has counter signed by the RTA of that other region. The permits are issued for a specific route and when the permit is sought to be renewed, there should be a valid permit for operation throughout the route. A validly existed permit on specific route alone can be renewed u/s 81(1) of MV Act. If counter signature from the authority of a particular region is not obtained, in respect of a permit on a route, it cannot be said that the permit is valid on that region and thereby the said permit not valid permit for operating on entire route. In this case, the counter signature from RTA Thrissur was necessary to make the permit entirely valid. Therefore, this permit No.C6/10/2006/P issued on 22.06.2006 on the route Guruvayur - Palakkad cannot be considered as the validly existed regular permit renewable u/s 81 of MV Act and clause 4 of notification G.O.(P) No.42/2009/Tran dated 14.07.2009.*

Challenging the above decision, the applicant preferred MVAA No.315/2011 before the Hon'ble STAT Ernakulam and the Hon'ble STAT in its final Judgment dated 24.07.2014 directed to re-consider the application for renewal of permit and temporary permit filed by her on the route Palakkad - Pattambi after affording an opportunity of being heard the appellant as well as the KSRTC. Then the matter was considered and rejected by RTA by circulation on 24.10.2014 on the ground that there was objectionable overlapping on

the route and there was no urgent temporary need on the route Guruvayur - Palakkad.

On 26.02.2016, the applicant produced the copy of the Judgment in WP(C ) No.33910/2014 dated 29.09.2015 , which directed the RTA Palakkad to consider the application dated 02.06.2015 for renewal of the existing permit on the modified route Pattambi - Palakkad with notice to the petitioner and KSRTC, in the next meeting of RTA with the observation that the petitioner asserted that this application was filed in consonance with decision of RTA dated 24.10.2014 and the order dated 24.07.2014 of Hon'ble STAT Ernakulam.

On 04.11.2019, the permit holder produced the Judgment dated 25.10.2019 in WP(C) No.28037/2019 (D) of Hon'ble High Court of Kerala, Ernakulam, in which the RTA Palakkad is directed to take a decision on the application for renewal of permit on the modified curtailed route Pattambi - Palakkad in the light of the Judgment in WP(C ) No.33910/2014 dated 29.09.2015 within a period of six weeks after notice of petitioner and affected persons, considering his representation dated 09.10.2019 (received on 19.10.2019) addressed to DTC Thrissur.

Hence, the matter is reconsidered with notice to the applicant as well as KSRTC and other operators. The representative of KSRTC as well as en route operators have strongly objected to granting renewal of permit on the modified route stating that this vehicle is non operative for the past ten years and timings for this service is not currently available.

The application for renewal of permit can be considered only with respect to the original route and the permit granted to the applicant in 2006 by the primary authority cannot be said to be as legal and operational in the absence of counter signature by the sister authority which has refused to give counter signature on the ground of the proposed route being one which overlaps notified scheme. Hence, this authority finds the request dated 02.06.2015 seeking renewal of permit on the modified route Palakkad - Pattambi by the applicant is devoid of merits and rejected.

Moreover, the stage carriage attached to the regular permit on the above route ie KL-08-AJ-9550 was issued clearance certificate to SRT0 Ottapalam as early as 12.10.2012 by keeping the above regular permit under suspended animation on the basis of the Order of Hon'ble STAT Ernakulam in MP No.668/2012 dtd.24/07/2012 in MVAA No.315/2011 and the permit is non operational since then.

At present, there is no stage carriage attached to this permit. A permit cannot exist without a suitable vehicle being available. This could be a sufficient reason for cancellation of

this permit in view of the observations of the division bench of the Hon'ble High Court of Kerala in the judgment dt 06.04.2016 in WA no.2486,2455,2769 of 2015. Hence, in exercise of the powers conferred upon under sub-section(1) of section 86 of the Motor Vehicles Act 1988 read with the rule 185 of Kerala Motor Vehicles Rules,1989, this Authority hereby cancel the regular stage carriage permit C6/10/2006/P with immediate effect. The permit holder is directed to surrender the original permit immediately before the Secretary, RTA, who is directed to record in the permit the order of cancellation.

On 31.01.2020 the above decision was communicated to the petitioner with direction to surrender the original permit immediately before the secretary RTA palakkad within 7 days.

Aggrieved by above decision of RTA, the petitioner approached the Hon'ble STAT and on 22.06.2020 produced the copy of judgement dated 05.06.2020 in MVAA No.39/2020 along with a request for issuing temporary permit. In the above judgement, the tribunal set aside the decision of RTA and directed the RTA Palakkad to reconsider the application for renewal submitted by the appellant on the modified route Pattambi-Palakkad on merit pass orders in accordance with law with in two months from the date of copy of judgement after hearing both sides.

As per the judgement in WP(C) NO.12992/2020 dated 30.06.2020 the Secretary RTA considered the application for temporary permit and it was rejected due to the objection from KSRTC.and issued rejection proceedings as per order NO.C4/8499/2020/P dated 03.08.2020 stating that the said route overlapped with notified sector and the primary permit was no longer valid.

Meanwhile enroute operators Sri.Sabu Varghese and another approached Hon'ble High Court of Kerala by filing WP(C) NO.14847/2020 with pray to stay all the proceedings pursuant to the judgement rendered by the Tribunal in MVAA No.39/2020 Dated 05.06.2020. pending disposal of the writ petition.Later the court on 23.07.2020 in an interim order stayed the above order of STAT for a period of one month.

On 07.01.2021 the permit holder again applied for four months TP u/s 87(1)d.The secretary decided to reject the application for temporary permit and issued rejection prodeedings as per order No.C4/8499/2020/P dated 03.08.2020 stating that the said route overlapped with notified sector and the primary permit was no longer valid.

In the above circumstances, the RTA may peruse the connected records while considering and taking decision on the matter.

Secretary,RTA,Palakkad