

**(2010) 11 KL CK 0039**

**High Court Of Kerala**

**Case No:** Writ Petition (C) No. 31721 of 2010 (M)

Sani Xavier

APPELLANT

Vs

The Regional Transport  
Authority and Others

RESPONDENT

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**Date of Decision:** Nov. 12, 2010

**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 80(3)

**Citation:** AIR 2011 Ker 101 : (2011) 1 KLJ 269 : (2011) 8 RCR(Civil) 2621

**Hon'ble Judges:** C.T. Ravi Kumar, J

**Bench:** Single Bench

**Advocate:** G. Prabhakaran, for the Appellant; K.C. Santhosh Kumar, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

C.T. Ravi Kumar, J.

The Petitioner is an existing stage carriage operator operating on the route Kolenchery Tripunithura Kuruvilangad with stage carriage bearing registration No. KL-5/P 2088. He has submitted an application for variation of the permit conditions, in respect of the said vehicle. Variation so as to deviate the service from Palachuvad to Anthiyal via Kakkayam and Periyappuram and also deviate on its last trip from Vettickal to Karurkav via Pampra and halt at Piravorm, were sought as per the said application. The said application was rejected by the first Respondent as per Ext. PL Against Ext. P1, the Petitioner has preferred an appeal as MV AA No. 99/2010 before the State Transport Appellate Tribunal. The said appeal was dismissed as per Ext. P3 judgment. It is challenging Exts. P1 and P3 that this Writ Petition has been filed.

2. Essentially, the request of the Petitioner as mentioned above included two curtailments and one of those was in the last trip. The said variation requested for, was declined to be granted on the ground that it will not subserve the public

convenience and in fact, it will affect the late night passengers. There cannot be any doubt that when an application is submitted for variation, the decisive factor should be the convenience of the travelling public in terms of the provisions u/s 80(3) of the Motor Vehicles Act (for short "the Act").

3. In fact, referring to the report of the Field Officer at page 15 of the RTA files, extracted in paragraph 3 of Ext. P3 order, it is contended by the Petitioner that the fact that the variation was also beneficial to the travelling public was not properly taken into consideration by the RTA while issuing Ext. P1 and by the STAT while passing Ext. P3 order. The aforesaid portion of the said report reads thus:

Curtailment of Namakuzhy will affect the existing travelling facilities. Last trip curtailment from Vettickal to Ezhakkaranad will also affect the late passengers. But the deviation via Pampra is an advantage. Deviation via Periyappuram will provide travelling facilities to this remote area suffering from lack of Public Transport System.

(Emphasis supplied)

Thus, the above extracted portion from the report of the Field Officer was relied on by the Tribunal for dismissing the appeal and now, relying on by the Petitioner herein to substantiate his contention and claim. However, I am of the view that a scanning of the said report in the light of the provisions u/s 80(3) of the Act would invariably suggest that finding of the Tribunal cannot be said to be perverse or unsupported by the materials. When an existing operator on a particular route seeks variation of the permit conditions involving curtailments, the paramount consideration while dealing with such an application has to be the interest of the travelling public on the entire existing route. A deviation from the original route may be beneficial to travelling public on that route to which deviation is sought for. But, when it involves curtailment of route originally granted, such variation cannot be granted ignoring the interest of the travelling public on the existing route. The above extracted report would reveal that the curtailments sought for will be adverse to the interest of travelling public on the existing route. In fact, it will affect the late night passengers. The mere fact that the report contained remarks that deviation will provide travelling facilities to another remote area cannot be a reason to contend that the findings of the RTA which was virtually affirmed by the Tribunal warrant interference. As already noticed hereinbefore, in view of the facts obtained in this case, the findings of the RTA and confirmed by the Appellate Tribunal cannot be said to be unsupportable by materials. In fact, the relevant factor viz., the interest of the travelling public on the existing route was rightly taken into consideration by the RTA as also by the Tribunal. In view of the above discussions, I do not find any illegality or perverseness in the decision in Ext. P1 and also in Ext.P3 finding of the Tribunal is virtually, supported by materials. In the said circumstances, Exts. P1 and P3 do not call for any interference. Accordingly, the Writ Petition is dismissed.