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REPORT No.21 dated 18-02-2015

Present:

- 1) Justice M.Ramachandran (Retd.) Chairman
 - 2) T.Elangovan Member
 - 3) R.Sreelekha, IPS ... Member Secretary
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By order No.217/B1/2015/Trans.dated 13-01-2015, the Government had directed the Fare Revision Committee to consider and make recommendations on the issue of reduction in fare of autorickshaws, taxi cars etc. Simultaneously, by order No.278/B/2015/Trans.dated 14-01-2015, the issue of reducing the fares of auto-taxi and stage carriage services had been forwarded to the Member Secretary (Transport Commissioner) inviting recommendations from the Fare Revision Committee. Representations submitted by general public and representatives of passengers' Association also had been forwarded. Also a specific order has been issued as Rt.No.590/14/Trans.dated 19-12-2014 making reference to G.O.(MS) No. 61/10/ Trans.dated 19-08-2010; G.O.(P) No.38/14/Trans. Dated 19-05-2014 and order No.166669/B1/14 dated 29-11-2014. The Government had referred to the order dated 19-05-2014 whereby the fares of stage carriage services had been increased. The Government had informed the Fare Revision Committee that the request made by general public to revert back to the pre-revised rates in the wake of reduction in the prices of petrol and diesel may be gone into. The Government had directed that practical reports are to be submitted taking note of the fall in prices of petroleum products, and whether there is necessity for re-fixing rates once again.

2. In this context, the Committee had held a preliminary meeting at Thiruvananthapuram (Rest

House, Thycaud) on 22-01-2015. Because of previous commitments, Member Sri.T.Elangovan had informed the Committee that it may not be possible for him to attend the meeting on that date. The Chairman and Member Secretary were present. The Member Secretary had informed that since Member Prof.B.A.Prekash had resigned from the Committee a request had been forwarded to the Government for nominating a new Member to the Fare Revision Committee. It had been further decided that since the issue was likely to affect the general public as well as the transport operators a public hearing may be arranged. Consequent to the above decision, public hearing had been decided to be convened at Ernakulam on 10-02-2015.

3. Wide publicity had been given about the meeting and the issues which were to be considered. The large attendance in the Collector's Conference Hall, Civil Station, Kakkanad indicated that the issue was to be lively considered.

4. Replacement orders in the place of Prof.B.A.Prekash were yet to be passed. The Chairman and Member Sri.T.Elangovan were present. Member Secretary Smt.R.Sreelekha was also present.

5. The Committee had received written representations from representative bodies of Bus Operators' Association, Residents Associations, Autorickshaw Owners' Association, Association of Stage Carriage Operators and Auto-taxi Operators' Association. Representatives of political parties were also present. There was difference of opinion, objections coming from stage carriage and auto-taxi operators associations contending that a reduction in fares taking note of the fall in petroleum products alone would not have been justifiable. On the other hand, the Consumers' Association and Senior Citizens Residents Associations etc., have vociferously contended that the present rates itself

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were on the higher side and status-quo anti required to be implemented. They are of the view that unmerited profit was being reaped by the operators whereas heavy burden continued to be there on the general public without getting the benefit of fall in oil prices internationally. Relief need to be given to them.

6. One of the principal contentions of the operators was that price of diesel/petrol was only one of the factors for fixing fares and the Committee should take notice of the circumstance that the operational cost in the matter of price of components, tyre, battery, oil and spare parts have substantially increased. Especially the bus operators' association had indicated that the workmen in the sector had called for an indefinite strike by demanding a wage revision. It had been pointed out that when the average wage is Rs.6000/- the demand was for 200% increase and any increase in the wages are likely to upset the situation. A reduction was out of question, they maintained.

7. Two preliminary objections had been raised -- one coming from the Centre for Consumer Education and the other from the Bus Operators' Association. The Centre for Consumer Education had raised a technical objection that without the presence of an expert, which position had been occupied by Prof.B.A.Prekash, the Committee should not have finalised the report. The objections from the stage carriage operators was that two writ petitions have been presented before the High Court of Kerala and they had been admitted and were posted for hearing on the identical issue, namely whether due to fall in diesel/petrol price a reduction in fares was necessary to be made. It was therefore requested that the report should be held back as the issue was subjudice.

8. On the objection of the "Centre", we do not think there is substance in it. Of course the

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Committee has a Chairman and three members, since only one of the members is not present, especially since the vacancy is yet to be filled up, it may not be necessary to defer consideration of the issue. The Government has fixed a time limit, which is to expire shortly for submission of the recommendations. The Committee has quorum and from the available materials it may be possible to finalise a report and it is always within the purview of the Government to issue further instructions to the Committee as the Government deem fit.

9. However, on the issue whether the matter is sub-judice, it had been decided to ascertain the views of the principal law officer of the Government, the Advocate General. In this matter, the Advocate General had been addressed and he was kind enough to send a quick response, by letter No.SS.11/2015/AG dated 13-02-2015. The Advocate General has informed the Chairman that it is true that two writ petitions are pending before the High Court of Kerala as WPC Nos.2107/2015 and 34971/2014. The Advocate General informed the Chairman that the court has directed the Government to submit the decision of the Government on the subject. There were no interim orders passed. It had been therefore requested that the recommendation of the Committee may be forwarded for facilitating the Government to take decision. He has also informed the Chairman that the writ petitions, in his opinion, does not hinder the Committee from considering the matter.

10. In the above background, the preliminary objections are overruled. Thus, the questions are whether the position status quo anti before the earlier revision are to be restored and whether fresh rates, in any manner, are to be recommended.

11. We had carried out deliberations in extenso. The considered view of the Committee is that there are no circumstances made out for

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tampering with or interfering with the rates or fare that are prevailing (including minimum fares) as on today as far as auto-taxis and the stage carriage services in the State.

12. The Committee may give brief reasons in support of their conclusion and recommendations as noted in the following paragraphs.

It may be highlighted that no strong arguments had been urged for changing the auto-taxi fares now notified in the State. Excepting to urge that the existing rates are on the higher side, really no materials had been presented by the Passengers' Association or anybody else for compelling the Committee to take a different view on the subject. In the international market, crude price has gone down. But the impact on retail diesel/petrol prices are not as marked as outside India. As we had occasion to point out earlier, special carriages are engaged for comfort and convenience, and is not compelling necessity, the passenger is presumed to be prepared for expending extra money.

Before going to the issue, we may observe that large number of participants had observed that in the matter of fixation of fare stage anomaly do exist and the Committee, by the terms of reference, is empowered and obliged to examine the complaints. But, as a matter of fact, in our earlier report we had indicated that fixation of fare stages is not a matter which comes within the purview of the Fare Revision Committee. This is because broad guidelines have been given in the statute governing fixation of fare stages. The DTO, in respect of State undertakings, and the RTA and STA are the authorities conferred with such powers. The reasons are obvious. There are hundreds and thousands fare stages and the Committee within its resources may not be able to measure or demarcate and thereafter alter the present fare stages. Therefore, this is a job which is to be locally executed. The statute

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further provides that if anybody is aggrieved about the decision of RTA or STA, a revision could be filed before the State Transport Appellate Tribunal. When statute has given the guidelines as above, by an executive order, the Government may not be in a position to confer such jurisdiction on this Committee. Appeal or revision from the decision of this Committee is not envisaged - further what is contemplated is only a recommendation and not a decision. The Government accepted the above stand of the Committee and therefore we had in the meeting, in clear terms, informed the members who raised objections about the fare stages, about this legal impediment.

Reverting back to the issue, we would take notice of the Government Order dated 19-12-2014 that what is contemplated is the issue of re-fixation of fares taking notice of the practical aspects. This was pointed out by the participants to indicate that simple reliance on the fall in price of fuel is not envisaged. The whole circumstances, namely the total cost and expenditure of the industry and the increase that has come during the two years and the future prospects of the industry also requires to be taken notice of.

We do not also understand the Government Order as a suggestion to change the fare structure only on the price of fuel that is prevailing in the State. We had requested the NATPAC to enlighten us about the fluctuation in prices and the impact of the current prices as prevailing in the market for coming to a conclusion whether a change in the rate in fact is contemplated. The feedback received by us indicate that the reduction in operational expenditure, after the reduced fuel prices, taking note of the increased operational expenses is in the range of 8.5% and we have to go by the realities. If this is the state of affairs, change in the existing pattern are not to be invited. We may not be understood however as going back from our previous

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reports in respect of concessions etc., which are yet to be implemented. Diesel price in September, 2011 was Rs.44.55 per litre. Although it had steadily shown in downward trend, the current position is that the price of diesel per litre as on 16-02-2015 ranges between Rs.51.58 and 51.07 - Thiruvananthapuram and Kasargode.

The prices of petroleum products are now showing a trend of increase. We cannot be oblivious the situation that the price of oil in the international market is extremely volatile. The mere fall in crude prices ipso facto cannot be taken as a criteria. International prices fluctuate and the special situation in India is that the value of Indian rupee against Dollar has come down during the last about 10 months, by about 20%. It is generally known that international oil price is governed by competition and lobbying of giants, such as U.S.A, Russia, China and the Gulf counties. In spite of fall in oil price and suffering loss, Soudi Arabia has stepped up oil production because by virtue of its currency strength it can hold on and can bear the impact of the loss. Once they stop production, they may lose the market share as fresh entrants are waiting to jump in. The news analysis show that the project of capturing shale oil advanced by U.S is attempted to be circumscribed by Soudi Arabia to advance its economic interest even by under quoting.

As we are witnessing, the oil prices are not steady. Initially there was a fall in price, but it has almost jumped back to the position which was prevailing about 10 months back. As pointed out by the participants, the Government of India has indicated that there is no proposal to reduce the railway fares, as according to them it is not yet time to take a final decision. From our enquiry, we found that only in the State of Karnataka bus fare reduced marginally, but that was in the area of minimum charge. As Karnataka and Tamilnadu prescribed

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fares from stage to stage, it may not be possible for Kerala to adopt that policy.

We note that a fare revision had been effected in the Kerala State, in respect of stage carriages, on 11-11-2012. The next revision had been brought about in May, 2014. The bus operators plead that it was only after long agitation and demand that the fare had been increased and the loss suffered by them in the meanwhile had gone unnoticed.

The further argument of the operators is that in respect of all commercial vehicles the operating cost has been increasing substantially and the reduction in the diesel price alone cannot be the sole criteria for reducing the rates already in existence. There is likely to be fluctuation and frequent changes not only give administrative difficulties for the Government in the matter of enforcement in the case of autorickshaws and taxi cars. The safe mode is not to disturb the scenario as it prevails today.

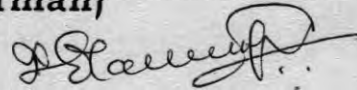
We find that the materials presented before us are in favour of coming to a conclusion that a fare revision of any types of vehicles is currently a matter not to be immediately taken notice of. Therefore, as pointed out earlier, we recommend that the status quo in the rates as now prevailing in respect of all commercial vehicles, including stage carriages, may be maintained and there is no

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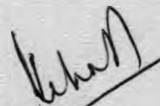
necessity for a change. Of course if the diesel/petrol prices become steady, in course of time, if the Government so desire, the issue could be subjected to a reconsideration, taking notice of all relevant aspects and other circumstances also to be taken notice of.



Justice M. Ramachandran (Retd.)
(Chairman)



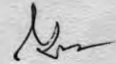
T. Elangovan
(Member)



R. Sreelekha, IPS
(Member Secretary)

APPENDIX

- 1) Photo copy of Government Order No.(Rt). 590/14/Trans.dated 19-12-2014
2. Statement of the prices of Petrol, Diesel, etc., from January, 2010 to January, 2015, supplied by Joint Regional Trnasport Officer, Sub RT Office, Thripunithura, after spot verification.
3. Photo of the letter received from the Advicate General, Ernakulam dated 13-02-2015.



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PETROL AND DIESEL PRICE IN KERALA

| DATE | PETROL | DIESEL | ENGINE OIL | GEAR OIL | BATTERY |
|--------|--------|--------|------------|----------|---------|
| Jan-10 | 47.5 | 35.5 | 212 | 182 | 8000 |
| Jan-11 | 58.5 | 37.75 | 235 | 207 | 8800 |
| Jan-12 | 66.41 | 41 | 267 | 221 | 9500 |
| Jan-13 | 69.7 | 49.78 | 281 | 246 | 10300 |
| Jan-14 | 76.1 | 58.35 | 304 | 262 | 11200 |
| Jan-15 | 62.4 | 52.12 | 310 | 285 | 12100 |

JOINT REGIONAL TRANSPORT OFFICER

SUB OFFICE

THIRUPUNTHURA



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20 DEC 2014

കേരള സർക്കാർ

സംഗ്രഹം

ഗതാഗത വകുപ്പ് - പെട്രോളിയം ഉൽപ്പന്നങ്ങളുടെ വില കുറഞ്ഞതിനെത്തുടർന്ന് ബസ് ചാർജ് പുനർനിർണ്ണയിക്കണമെന്ന നിർദ്ദേശം പരിശോധിച്ച് 3 മാസത്തിനകം പ്രായോഗികമായ റിപ്പോർട്ട് സമർപ്പിക്കാൻ ജസ്റ്റിസ് രാമചന്ദ്രൻ കമ്മിറ്റിയെ ചുമതലപ്പെടുത്തി സർക്കാർ ഉത്തരവാകുന്നു.

ഗതാഗത (ബി) വകുപ്പ്.

സ.ഉ.(ആർ.ടി)നം.590/14/ഗതാ.

തീയതി, തിരുവനന്തപുരം, 19/12/2014.

- പരാമർശം :-
1. 19/08/2010 ലെ ജി.ഒ.(എം.എസ്.) 61/10/ഗതാ.
 2. 19/05/2014 ലെ ജി.ഒ.(പി) നം. 38/14/ഗതാ.
 3. 29/11/2014 ലെ 16669 ബി1/14 നം. സർക്കാർ കത്ത്.

ഉത്തരവ്

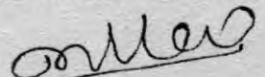
സംസ്ഥാനത്തെ സ്റ്റേജ് കാര്യങ്ങളുടെ യാത്രാനിരക്കുകൾ വർദ്ധിപ്പിച്ചുകൊണ്ട് സൂചന 2 പ്രകാരം സർക്കാർ ഉത്തരവായിരുന്നു. തുടർന്ന് പെട്രോൾ, ഡീസൽ എന്നിവയ്ക്കുണ്ടായ വിലക്കുറവ് കണക്കിലെടുത്ത് നിരക്ക് വർദ്ധന പിൻവലിക്കണമെന്ന് അഭ്യർത്ഥിച്ച് നിരവധി നിവേദനങ്ങൾ സർക്കാരിൽ ലഭിക്കുകയുണ്ടായി. പെട്രോളിയം ഉൽപ്പന്നങ്ങളുടെ വില കുറഞ്ഞതിനെത്തുടർന്ന് ബസ് ചാർജ് പുനർനിർണ്ണയിക്കണമെന്ന നിർദ്ദേശം പരിശോധിച്ച് 3 മാസത്തിനകം പ്രായോഗികമായ റിപ്പോർട്ട് സമർപ്പിക്കാൻ ജസ്റ്റിസ് രാമചന്ദ്രൻ കമ്മിറ്റിയെ ചുമതലപ്പെടുത്തിക്കൊണ്ട് സർക്കാർ ഉത്തരവാകുന്നു.

ഗവർണ്ണറുടെ ഉത്തരവിൻ പ്രകാരം,

ശ്രീകുമാർ. എൻ.കെ.,
ജോയിന്റ് സെക്രട്ടറി.

പകർപ്പ് :- ജസ്റ്റിസ് രാമചന്ദ്രൻ. (ഗതാഗത കമ്മീഷണർ മുഖേന)
ഗതാഗത കമ്മീഷണർ, തിരുവനന്തപുരം.
ചെയർമാൻ & മാനേജിംഗ് ഡയറക്ടർ, കെ.എസ്.ആർ.ടി.സി.,
തിരുവനന്തപുരം.
സ്റ്റോക്ക് ഫയൽ / ഓഫീസ് കോപ്പി.

ഉത്തരവിൻപ്രകാരം,


സെക്ഷൻ ഓഫീസർ.

PETROL AND DIESEL PRICE IN KERALA

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Sd/-
Joint Regional Transport office
Sub RT office
Thripunithura

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K. P. DANDAPANI
ADVOCATE - GENERAL
KERALA

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E-mail : advocategeneralkerala@gmail.com

No. SS 11/2015/AG

13th February, 2015

Justice M. Ramachandran (Retd.)
2, A Sivam, Layam Road
Ernakulam
Kochi - 682 011.

Sir, Respected Sir,

Sub: W.P.(C) No.2107/2015 filed by All Kerala Bus Operators Forum & another- legal opinion forwarding of - reg.

Ref: Your letter No. nil dated 10.02.2015.

As per the above letter your goodself had requested to inform whether it would be proper for the Committee to consider the matters referred to it and submit recommendations in view of pendency of the Writ Petitions.

W.P.(C) No.34971/2014 has been filed by Mr.Thampi Subramanian seeking direction to the Government to modify G.O.(P) No.38/2014/Tran. Dated 19.5.2014 in accordance with the reduction of diesel price effected by Government of India and Public Sector Oil Companies in India. Similarly W.P.(C) No.2107/2015 has been filed by All Kerala Bus Operators Forum seeking a writ of prohibition prohibiting the Government from effecting any fare revision in respect of State carriages by reducing from the existing fare.

The Hon'ble Court in W.P.(C) No.34971/2014 has orally directed the Government to submit the decision of the Government with regard to the

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