CNR : KLHC010605872026

2026:KER:77134

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

TUESDAY, THE 6TH DAY OF OCTOBER 2026 / 14TH ASWINA, 1948

WP(C) NO. 27715 OF 2026

PETITIONER:

T. N ARUN KUMAR,
AGED 73 YEARS
S/O. NARAYANA PILLAI, VISHNU VIJAYAM,
CHEGNATTU LANE, PERUMBAVOOR,
ERNAKULAM DISTRICT, PIN – 683 542.

BY ADVS.
SRI. VIPIN NARAYAN
SRI. ASHWANTH PADMAN

RESPONDENTS:

1 MINISTRY OF ROAD TRANSPORT AND HIGHWAYS,
REPRESENTED BY ITS SECRETARY TRANSPORT BHAWAN, 1,
PARLIAMENT STREET NEW DELHI, PIN – 110 001.

2 TRANSPORT COMMISSIONER,
TRANSPORT COMMISSIONERATE, TRANS TOWERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM,
KERALA, PIN – 695 014.

3 REGIONAL TRANSPORT OFFICER,
ERNAKULAM, 2ND FLOOR, CIVIL STATION, KAKKANAD,
THRIKAKKARA, PIN – 682 030.

SRI. SARATH - GP
SRI. AMAL PARTHASARADHY- CGC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06.10.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

“C.R”

JUDGMENT

The petitioner is the registered owner of a motor car bearing Registration No.KL-07-CE-6306 which was purchased in the year 2015 under hypothecation to Bank of Baroda, Perumbavoor Branch. After closing the loan account, when the petitioner approached the 3rd respondent, the Regional Transport Officer, for cancellation of the hypothecation entry in the Certificate of Registration, he was informed that the vehicle had been blacklisted on account of challans remaining unpaid for more than 90 days and the application could not be accepted. The petitioner has produced the list of challans issued in respect of the vehicle as Exts.P3 and P4. The petitioner states that Ext.P4 challans pertain to the period prior to

01.10.2020, i.e., before the coming into force of Rule 167 of the Central Motor Vehicles Rules, 1989, introduced by way of the Central Motor Vehicles (Eleventh Amendment) Rules, 2020. The petitioner has produced the copy of the amended Rules as Ext.P5 which states that the Rules shall come into force with effect from 01.10.2020. The petitioner also relies on Ext.P6 Advisory dated 02.01.2023, issued by the 1st respondent, which prescribes the categories of vehicles to be flagged as “NOT TO BE TRANSACTED” on the VAHAN portal. Sl.No.09(d) thereof covers cases where challans remain pending for more than 90 days. The petitioner states that challans listed in Ext.P3 were issued subsequent to the aforesaid amendment and those listed in Ext.P4 were generated prior to the amendment and the petitioner has already paid the compounding fees in respect of

Ext.P3 challans. The petitioner further states that no prosecution or court proceedings are pending in respect of the alleged speed violations pertaining to the period from 2015 to 2019. The petitioner, therefore, contends that the challans listed in Ext.P4 do not fall within the purview of Rule 167 of the Central Motor Vehicles Rules, 1989, and that the vehicle cannot be blacklisted for non-payment of those challans. It is contended that Rule 167(7) cannot operate retrospectively so as to impose a new restriction or disability upon the petitioner on the basis of alleged violations committed prior to the coming into force of the amended provision. The amended provision came into force only with effect from 01.10.2020, whereas the alleged violations relied upon by the 3rd respondent pertain to a period prior thereto. A provision imposing a new restriction

or disability cannot be given retrospective effect, particularly when it prejudicially affects the rights of the petitioner. Therefore, it is contended the respondents cannot deny the petitioner the services sought for.

2. A statement has been filed on behalf of the 3rd respondent wherein the details of the challans issued in respect of the subject vehicle prior to and subsequent to 01.10.2020 are given.

3. Heard Sri.Vipin Narayan, the learned counsel for the petitioner, the learned Central Government Counsel and the learned Government Pleader.

4. Sri.Vipin Narayan, the learned counsel for the petitioner refers to the decisions of the Hon'ble Supreme Court in **Panchi Devi *v.* State of Rajasthan and Others** [2009 KHC 4145] and **Commissioner of Income Tax (Central)-I, New**

Delhi *v.* Vatika Township Private Limited [(2015) 1 SCC 1] to contend that a right or liability created for the first time under an amended provision cannot be given retrospective effect. It is contended that the intention of the State to give retrospective effect to a rule must be clear and explicit. In Ext.P5 Amendment Rules, the date of commencement of the amendment is specified as 01.10.2020, though the Rules were published on 25.09.2020. This, according to Sri.Vipin, indicates the intention of the State to give only prospective effect to the amendments introduced by Ext.P5. Therefore, it is contended that the vehicle of the petitioner cannot be blacklisted and service cannot be denied to him for non payment of the challans generated and issued prior to 01.10.2020.

5. Ext.P5 Amendment Rules defines “Challan” as follows:-

> "(ca) "Challan" means a document, in physical or electronic form issued by any police officer in uniform or any other officer authorised by the State Government in this behalf, to a person acting in violation of the provisions of the Act, in the form of a receipt comprising the details of the offence committed and the offender, the amount of penalty imposed and mode of collection of the same, if applicable, details of the officer issuing such document and other details as may be specified by the State Government;
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> Explanation: For the purposes of this clause, E-challan shall mean a challan issued in electronic form."

Rule 167 of Ext.P5 Amendment Rules reads as follows:-

> "167. Procedure for issuance and payment of challan: - (1) Any police officer in uniform or any other officer, authorised by the State Government in this behalf shall issue a challan through system or e-challan facility physical or electronic form, to a person acting in violation of the provisions of the Act.
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> (2) Notwithstanding anything contained in sub-rule (1), in case of any person violates the provisions of the Act, the State Government or designated agency can enable auto-generation of challan through electronic monitoring and enforcement system or manually by any police officer or by a designated agency.
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> (3) The challan issued under sub-rules (1) or (2),

shall be delivered to a person who violates the provisions of the Act either by hand or any other physical or electronic means of communication authorised by the Central Government or State Government.

(4) Details of challans issued under sub-rules (1) or (2), shall be recorded chronologically in the portal on a regular basis for access by enforcement officers.

(5) Challans issued under sub-rules (1) or (2) shall be disposed of within ninety days from the date of issuance of the challan, in physical or electronic form, except in case of offences instituted for prosecution by a court.

(6) If a challan is due beyond the time period specified in sub-rule (5), at least one additional notice for payment may be sent through electronic means of communication authorised by the Central Government or State Government or by way of call to the registered mobile number of a person who violates the provisions of the Act.

(7) If a challan is due beyond the time period specified in sub-rule (5), except in case of offences instituted for prosecution by a court, then applications with respect to the license of offender or registration of motor vehicle, as the case may be, mentioned in the challan shall not be processed by the licensing authority or registering authority, as the case may be, except applications relating to permit, fitness and tax(es) of motor vehicle.

(8) Subject to orders of the court, in respect of challans issued under sub rules (1) or (2), a police officer in uniform authorised by the State

> Government in this behalf may detain the vehicle involved in violation."

6. Rule 167(7) interdicts the licencing or registering authority from processing applications with respect of license of offender or registration of motor vehicle, as the case may be, in respect of persons against whom challans are pending. However, this bar will not be applicable in respect of applications regarding issuance/surrender of permits, fitness and payment of tax on the motor vehicle. As per Item No.9(d) of Annexure I to Ext.P6 Advisory, vehicles in respect of which challans remained pending for more than 90 days are flagged as "NOT TO BE TRANSACTED" and, consequently, cannot be transacted.

7. Section 51(3) of the Motor Vehicles Act, 1988 and Rule 61 of the Central Motor Vehicle Rules,

1989 deal with the procedure for cancelling the hypothecation in the certificate of registration.

8. The question that arises for consideration in this writ petition is whether the 3rd respondent can apply Rule 167(7) of the Central Motor Vehicles Rules retrospectively so as to flag the petitioner's vehicle as “NOT TO BE TRANSACTED” and refuse to process his application for cancellation of the hypothecation entry on the ground of non-payment of challans issued prior to the coming into force of the amendment.

9. Rule 167 of the Central Motor Vehicles Rules, introduced by way of amendment, came into force with effect from 01.10.2020. Sub rule (7) thereof interdicts the registering authority from processing applications in relation to registration of motor vehicle in respect of persons against whom challans are pending. Can this new restriction or prohibition be

applied to violations that occurred prior to the coming into force of the amended provision, i.e, in respect of challans issued prior to the commencement of the amendment?

10. In **Panchi Devi** (supra), the Hon'ble Supreme Court held that subordinate legislation is ordinarily prospective in nature and a right or liability which is created for the first time, cannot be given retrospective effect. The Hon’ble Supreme Court in **Zile Singh *v.* State Of Haryana & Ors [**2004 (3) KLT OnLine 1205 (SC)] held thus:-

> “It is a cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have a retrospective operation. But the rule in general is applicable where the object of the statute is to affect vested rights or to impose new burdens or to impair existing obligations. Unless there are words in the statute sufficient to show the intention of the Legislature to affect existing rights, it is deemed to be prospective only *'nova constitutio futuris formam imponere debet non praeteritis'* a new law ought to regulate what is to follow, not the past.”

11. In **Commissioner of Income Tax (Central)-I, New Delhi** (supra), the Constitution Bench of the Supreme Court has held that unless a contrary intention appears, a legislation is presumed not to be intended to have a retrospective operation. In holding so, the Constitution Bench adverted to certain general principles as follows:-

> "28. Of the various rules guiding how a legislation has to be interpreted, one established rule is that unless a contrary intention appears, a legislation is presumed not to be intended to have a retrospective operation. The idea behind the rule is that a current law should govern current activities. Law passed today cannot apply to the events of the past. If we do something today, we do it keeping in view the law of today and in force and not tomorrow's backward adjustment of it. Our belief in the nature of the law is founded on the bedrock that every human being is entitled to arrange his affairs by relying on the existing law and should not find that his plans have been retrospectively upset. This principle of law is known as lex prospicit non respicit: law looks forward not backward. As was observed in Phillips v. Eyre, 1870 LR 6 QB 1, a retrospective legislation is contrary to the general principle that legislation by which the conduct of mankind is to be regulated when introduced for the first time to deal with future acts ought not to change the character of past transactions carried

> on upon the faith of the then existing law.
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> 29. The obvious basis of the principle against retrospectivity is the principle of "fairness", which must be the basis of every legal rule as was observed in L'Office Cherifien des Phosphates v. Yamashita - Shinnihon Steamship Co. Ltd., 1994 (1) AC 486 : 1994 (2) WLR 39 : 1994 (1) All ER 20 (HL)] Thus, legislations which modified accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect; unless the legislation is for purpose of supplying an obvious omission in a former legislation or to explain a former legislation. We need not note the cornucopia of case law available on the subject because aforesaid legal position clearly emerges from the various decisions and this legal position was conceded by the counsel for the parties. In any case, we shall refer to few judgments containing this dicta, a little later."

12. Rule 167(7) of the Central Motor Vehicles Rules, introduced with effect from 01.10.2020, imposes a restriction on the processing of applications relating to driving licences and registration of motor vehicles where challans are pending against the applicants. Before the amendment, the pendency of a challan did not, by itself, operate as a bar against

processing an application for registration of a motor vehicle. It is trite law that a statutory provision imposing a new restriction must operate prospectively, unless a contrary legislative intention is either expressly stated or arises by necessary implication. Ext.P5 Amendment Rules, published on 25.09.2020, expressly provide that the amendments shall come into force with effect from 01.10.2020. Rule 167(7), insofar as it interdicts the processing of applications in relation to registration of motor vehicles on account of pending challans, introduces a restriction that did not previously exist. Rule 167(7) being substantive law, operates prospectively as retrospectivity is not clearly made out by its language. Therefore, in the absence of a clear legislative intention to confer retrospective effect on Rule 167(7), the provision cannot be invoked to

interdict the processing of applications for registration of motor vehicles merely on the ground that challans issued prior to 01.10.2020 remain pending against the applicants.

13. Accordingly, there will be a direction to the 3rd respondent to receive and process the application of the petitioner for cancellation of the entry regarding hypothecation, in accordance with law, without taking into account the pendency of challans issued prior to 01.10.2020, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of.

Sd/-

MURALI PURUSHOTHAMAN
JUDGE

SPR

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1	TRUE COPY OF THE CERTIFICATE OF THE REGISTRATION OF THE VEHICLE BEARING NO.KL 07 CE 6306.
EXHIBIT P2	TRUE COPY OF THE LETTER ISSUED BY THE CHIEF MANAGER, BANK OF BARODA, PERUMBAVOOR BRANCH.
EXHIBIT P3	A TRUE COPY OF THE DETAILS OF THE E-CHALLANS RELATING TO VEHICLE NO. KL-07-CE-6306.
EXHIBIT P4	A TRUE COPY OF THE INTIMATION OBTAINED FROM THE VAHAN CITIZEN SERVICES PORTAL, TRANSPORT DEPARTMENT, GOVERNMENT OF KERALA, ERNAKULAM RTO.
EXHIBIT P5	TRUE COPY OF THE AMENDED RULES PUBLISHED IN THE GAZETTE NOTIFICATION G.S.R.584(E) DATED 25.09.2020 ISSUED BY THE MINISTRY OF ROAD TRANSPORT AND HIGHWAYS.
EXHIBIT P6	A TRUE COPY OF THE ISSUED ADVISORY NO. RT-11036/09/2023-MVL (SELECTION) DATED 02.01.2023.

RESPONDENT'S EXHIBITS: NIL.