

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA.J

W.P.No.13410 of 2015

C.Senthilkumar

... Petitioner

vs.

1. Inspector of Police
Traffic Investigating Wing,
T-12, Poonamallee Police Station,
Chennai.

2. The Licensing Authority-Cum-
Regional Transport Officer,
Poonamallee,
Chennai 600 056

... Respondents

PRAYER: This Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the 2nd respondent herein to return the original Driving License (DL.No.TN60 19980000409) to the petitioner forthwith and pass further orders.

For Petitioner : Mr.K. Hariharan

For Respondent : Mr.R.Lakshminarayanan
Additional Government Pleader

O R D E R

This Writ Petition has been filed by C.Senthilkumar, who is a driver of Metropolitan Transport Corporation of Chennai, seeking a direction to the second respondent to return his original driving license (DL. No. TN60 19980000409) to the petitioner. on the basis of the ratio laid down by this Court in the reported case of P.SETHURAM -VS- THE LICENSING AUTHORITY, THE REGIONAL TRANSPORT OFFICER, DINDIGUL in 2010 Writ L.R. 100), wherein it has been held that mere registration of criminal complaint is not enough to suspend the licence as proper enquiry has to be held by giving notice to the petitioner for impounding the same. The case on hand also is similar to the reported case.

2. Learned counsel appearing for the petitioner would submit that the petitioner while driving the bus bearing Registration

No. TN-01-N-9202 on route No.101-A on 08.02.2015, met with an accident. Resultantly, the motor cycle rider unfortunately died. Pursuant to the said accident, the first respondent, the Inspector of Police, Traffic Investigating Wing, T-12, Poonamallee Police Station, Chennai, registered a case against him under Sections 279 and 304-A of IPC and thereupon sent the FIR to the Magistrate Court, Poonamallee, pending investigation. While registering the FIR, the first respondent collected the original driving license of the petitioner and retained the same in the police station. Subsequently, the first respondent sent the same to the second respondent herein. Even though a representation was given to the second respondent, till date he has not returned the original driving license and hence the petitioner is unable to join duty. In view of non-possession of the driving license, he has been put to grave prejudice. Besides, without enquiry the licence has been impounded against law.

3. Mr.R.Lakshminarayanan, learned Additional Government Pleader takes notice for the respondents. With the consent of both parties, the writ petition is taken up for disposal at the stage of admission itself.

4.No doubt, the petitioner's license has been taken out by the first respondent and handed over to the second respondent, for the reason that he had met with an accident on 08.02.2015, resultantly causing death of a motorcycle rider. Subsequently, the petitioner approached the second respondent, but till date, he has not been returned with the original driving license. In similar circumstances, this Court in Writ Petition No.11466 of 2015, following the ratio laid down in P.Sethuram's case, has passed the following order:

" 5. I have considered the above submissions. It is seen that the driving license of the petitioner has been sent to the second respondent by the first respondent with a recommendation to cancel the same. This Court is of the view that the second respondent without any enquiry, that too, without issuing any show cause notice, cannot keep the driving license with him. Therefore, in the light of the ratio laid down by this Court in P.Sethuram Vs.The Licensing Authority, The Regional Transport Officer, Dindigul (2010 writ L.R.100), the second respondent is directed to return the driving license to the petitioner within a period of ten days from the date of receipt of a copy of this order. The writ petition is disposed of accordingly, No costs".

In the present case is also there is no enquiry. On the other hand, the original driving license of the petitioner was impounded by the

police immediately after the accident, but the impounding of the license has not been actually preceded with the issue of show cause notice. Therefore, following the said ratio, the second respondent is directed to return the driving license to the petitioner within a period of one week from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition is allowed. No costs.

avr/srn

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. Inspector of Police
Traffic Investigating Wing,
T-12, Poonamallee Police Station, Chennai.
2. The Licensing Authority-Cum-Regional
Transport Officer, Poonamallee,
Chennai 600 056

+ 1 cc to Mr.K.Hariharan, Advocate SR 24351

mg(co)
prk27/5

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