

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.05.2015**

CORAM

THE HON'BLE MR.JUSTICE **R.SUBBIAH**

W.P.No.14680 of 2015

G.Sekar

... Petitioner

vs.

1. The Transport Commissioner
Chepauk, Chennai 600 005.
2. The Assistant License Issuing Authority
Regional Transport Office
Redhills, Chennai 600 067.
3. The Regional Transport Officer
O/o.The Regional Transport Office
Thiruvanmiyur
Chennai.
4. The Inspector of Police
J-2, Adyar Traffic Investigation Wing
Besant Nagar, Adyar
Chennai 600 090.
5. The General Manager
Metropolitan Transport Corporation
Chennai Limited, Chennai 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of mandamus to direct the respondents to consider the petitioner's representation dated 28.04.2015 and thereby direct the respondents to return the petitioner's license in D.L.No.TN-20Z 19890000008, which was seized by the fourth respondent and handed over to the third respondent.

For petitioner : Mr.M.V.Muralidharan
For respondents : Mr.Dig Vijaya Pandian
Additional Government Pleader for
RR 1 to 3
Mr.P.Kannan Kumar for R5

ORDER

The writ petition is filed seeking a mandamus directing the respondents to consider the petitioner's representation dated 28.04.2015 and thereby direct the respondents to return the petitioner's license in D.L.No.TN-20Z 19890000008, which was seized by the fourth respondent and handed over to the third respondent.

2. The case of the petitioner is that he is a Driver working in the fifth respondent Corporation. While so, on 24.04.2015, when he was driving the bus in Route No.M70/D, bearing Registration No.TN 01 N 4516, near Thiruvannamiyur, it met with an accident resulting in registration of a case by the fourth respondent in Crime No.269/AM3/15. In the said incident, a cyclist, who attempted to overtake the bus fell down and died on the spot. Due to the same, the fourth respondent seized his licence and handed over the same to the third respondent. Hence, the present writ petition seeking to return the same.

3. Learned counsel for the petitioner submitted that the fourth respondent without issuance of any prior notice or conducting an enquiry

contemplated under Section 19 of the Motor Vehicles Act, seized the licence and handed over the same to the third respondent. He would further submit due to the seizure of the licence, the petitioner could not drive the vehicle and he was also placed under suspension by the fifth respondent. He also brought to the notice of this Court, the earlier order passed by this Court under similar circumstances and prayed for return of the seized licence.

4. I have heard both sides and perused the materials placed on record.

5. This Court earlier in identical circumstances in W.P.No.30417 of 2013 vide order dated 26.11.2013 passed the following order:

"4. The issue raised by the petitioner is no longer res integra in view of the judgment of the Division Bench of this Court in P.Sethuram vs. The Licensing Authority, the Regional Transport Office, The Regional Transport Office, Dindigul [2010 Writ LR 100]. The Division Bench has made it very clear that the pendency of a criminal case would not give jurisdiction to the authority to cancel the license. The authority has to wait for the outcome of the criminal case. The Division Bench further held that only in case the respondent would be in a position to prove the commission of cognizable offence which would attract Section 19(1) of Motor Vehicles Act, 1988, the license could be suspended.

5. The license of the petitioner was seized solely on the ground that he was involved in a criminal case under Section 304-A

IPC. The criminal case is still pending. The factum of involvement of the petitioner in an offence under Section 304-A of the Indian Penal Code would not give jurisdiction to the second respondent to seize the license. Therefore, I am of the view that the second respondent was not justified in keeping the license with him."

6. Following the same and considering the fact that the petitioner's license was seized only on the ground of involvement of a criminal case under Section 304-A of IPC and the same would not give jurisdiction to the authority to seize the license itself, I am inclined to pass the following order:

The third respondent is directed to return the license of the petitioner in D.L.No.TN-20Z 19890000008 to him forthwith.

7. With the above direction, this writ petition is disposed of. No costs.

14.05.2015

vj2

Index: Yes/No

Internet: Yes

To

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