

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1588 of 2015

A.Kalidoss .. Petitioner

Vs.

1.The Transport Commissioner
Chepauk, Chennai 600 005.

2.The Regional Transport Officer
Regional Transport Office
Chennai North
Kolathur, Chennai 99.

3.The Regional Transport Officer
Regional Transport Office
Chengalpet, Kancheepuram District.

4.The Inspector of Police
G-3 Traffic Investigation Wing
Kilpauk, Chennai 600 010.

5.The Managing Director
Metropolitan Transport Corporation
Pallavan House
Chennai 600 002.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 4 to consider the petitioner's representation dated 14.01.2015 and thereby direct the respondents 1 to 4 to return the petitioner's license in D.L.No.TN 21 X19940000100 which was seized by the 2nd respondent.

For Petitioner : Mr.M.V.Muralidaran

For Respondents : Mr.Dig Vijaya Pandian,AGP
for R1 to R4
Mr.P.Kannan Kumar, for R5

O R D E R

Writ petitioner has come forward seeking direction to the respondents 1 to 4 to consider his representation dated 14.01.2015

and thereby direct them to return his licensc in D.L.No.TN 21 X19940000100, which was seized by the 2nd respondent.

2. It is the case of the petitioner that he is a driver working under Metropolitan Transport Corporation Limited; that there was an accident on 12.01.2015, resulting in registration of a case in Crime No.11/P2/2015. The second respondent, without issuance of any prior notice or conducting any enquiry, seized the driving licence of the petitioner, which according to him, is contrary to the provisions of Section 19(1) of the Motor Vehicles Act, which is extracted hereunder:

"Power of licensing authority to disqualify from holding a Driving Licence or revoke such licence.

(I) If a licensing authority is satisfied, after giving the holder of a Driving Lincence an opportunity of being heard, that he

(a) is a habitual criminal or habitual drunkard; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substance Act, 1985 (61 of 1985); or

(c) is using or has used a motor vehicle in the commission of cognizable offences; or

(d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public; or

(e) has obtained any driving licence or a licence to drive a particular call or description of motor vehicle by fraud or misrepresentation; or

(f) has committed any such act which is likely to cause nuisance or danger to public, as may be prescribed by the central government, having regard to the objects of this Act, or

(g) has failed to submit to, or has not passed, the tests referred to in the Proviso to sub section (3) of Section 22; or

(h) being a person under the age of eighteen years who has been granted a learner's licence or a driving licence with the consent in writing of the person having the care of the holder of the licence and has ceased to be in such care, it may, for reason to be recorded in writing, make an order;

(i) disqualifying that persons for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence; or

(j) revoke any such licence."

3. Heard both sides.

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.SETHURAMAN v. THE LICENSING AUTHORITY, RTO, DINDUGAL [2010 Writ L.R. 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 licence. The authority has to wait for the outcome of the criminal case. The Division Bench further held that only in case the respondent is in a position to prove the commission of cognizable offence which would attract Section 19(1) of Motor Vehicles Act, 1989, the licence could be suspended.

5. The licence 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 IPC would not give jurisdiction to the second respondent to seize the licence.

6. Under such circumstances, the second respondent is directed to return the driving licence to the petitioner forthwith and if the same has been handed over before the appropriate Criminal Court, it is open to the petitioner to make necessary application and get the same from the Criminal Court concerned. It is made clear that this Court has not decided on merits of the case arising out of the accident that took place on 12.01.2015 which has got to be decided by the appropriate criminal Court. It is open to the authority concerned to take appropriate action for cancellation of licence and this Court has not rendered any finding to that effect.

Accordingly, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

1.The Transport Commissioner
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2.The Regional Transport Officer
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Chennai North, Kolathur, Chennai 99.

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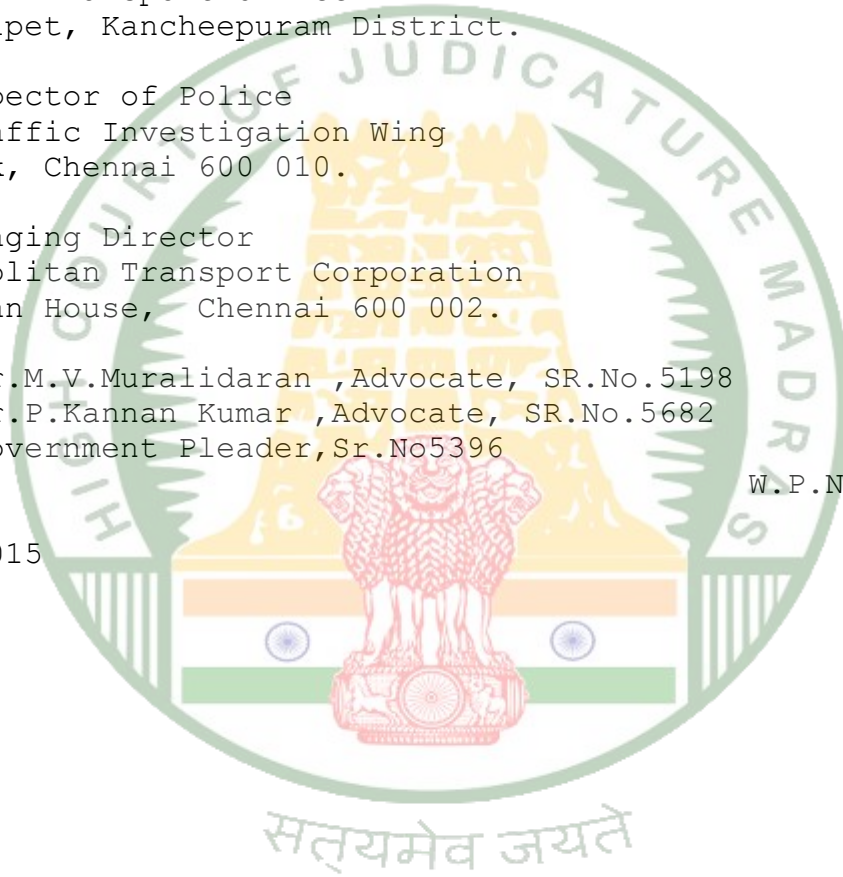
1 cc to Mr.M.V.Muralidaran ,Advocate, SR.No.5198

1 cc to Mr.P.Kannan Kumar ,Advocate, SR.No.5682

1 cc to Government Pleader,Sr.No5396

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pmk.6.2.2015



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