

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.16021 of 2015

R.Ganesh

[Petitioner]

Vs

1 The Inspector of Police
Traffic Investigation Wing
R-4 Soundarapandianar Angadi Police Station
T.Nagar Chennai 17

2 The Licensing Authority cum
Regional Transport Officer
Chennai South West
Virugambakkam Chennai 92 [Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the 2nd respondent herein to return the original driving license (NPDL: TN0719820003770) to the petitioner forthwith.

For Petitioner : Mr.P.Anbazhagan
For Respondents : Mr.A.Kumar, Spl.GP

O R D E R

Heard the learned Counsel for the petitioner and Mr.A.Kumar, learned Special Government Pleader, who takes notice for respondents and with their consent, the main writ petition itself is taken up for disposal at the stage of admission itself.

2.1 This writ petition has been filed by R.Ganesh, who is the owner of Maruti Estilo Car, bearing Registration No.TN20AQ4394. The claim of the petitioner is that he is a self employed person, holding non-professional driving licence bearing No.TN0719820003770. On 26.03.2015, when he was proceeding in the said Car from Arcot Road in Saligramam area at about 19.15 hours, as there was heavy traffic at the junction, he was waiting behind the junction for green signal and after the green signal was given, all the vehicles started to move at slow speed to cross the junction with the average speed of 20 Kmph and he was also moving.

2.2 It is the further case of the petitioner that the signal was changed by that time when he was about to cross the junction and hence he stopped the car. Since at that time there was commotion just behind the Car, he got down to see what had happened there. At

about few meters behind his Car, on the busy road intersection area, at the location which is neither a pedestrian crossing area nor a pavement, there was a person aged about 40 years lying unconscious on the road in the state of extreme drunkenness.

2.3 Adding further, the petitioner has averred in the affidavit filed in support of the writ petition that he was charged of having hit the person lying unconscious on the road and FIR was registered in Cr.No.127/TN2/2015 for offences punishable under Sections 279 and 304 A of IPC and the police seized the licence and forwarded the same to the 2nd respondent recommending cancellation on 27.03.2015.

2.4 According to the application, subsequently, he was issued with a show cause notice on 13.05.2015 as to why his licence should not be suspended, to which, he has also submitted a detailed reply on 14.05.2015. Ignoring the same, the 2nd respondent passed an order suspending the licence of the petitioner for a period of six months and the petitioner is deprived of using the vehicle. As against the said order, an appeal was filed by the petitioner and the same is also pending. Therefore, the petitioner has come to this Court with the aforesaid prayer.

3. The learned counsel for the petitioner has placed reliance on the Division Bench Judgment of the Madurai Bench of this Court reported in 2010 WLR 100 (P.Sethuram vs. The Licensing Authority, The Regional Transport Officer, Dindigul), wherein, this Court has held that licence of a vehicle owner cannot be impounded without there being a show cause notice or an enquiry. According to him, as far as the present case is concerned, the licence was seized and only thereafter a show cause notice was issued and even after giving a detailed reply, the rejection order has been passed and therefore, the ratio laid down by this Court in the aforementioned case reported in 2010 WLR 100 has been violated.

4. Mr.A.Kumar, learned Special Government Pleader appearing for the respondents submitted that this is a case where the original authority has passed an order, as against which, an appeal was filed and the same is pending. Therefore, according to him, if the licence is returned to the petitioner, the pending appeal would become infructuous. The learned Special Government Pleader therefore, sought two weeks time to dispose of the appeal on merits.

5. Considering the fact that the appeal is pending consideration, this Court is not inclined to answer the prayer in favour of the petitioner. However, this Court directs the appellate authority to consider the appeal and pass appropriate orders on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

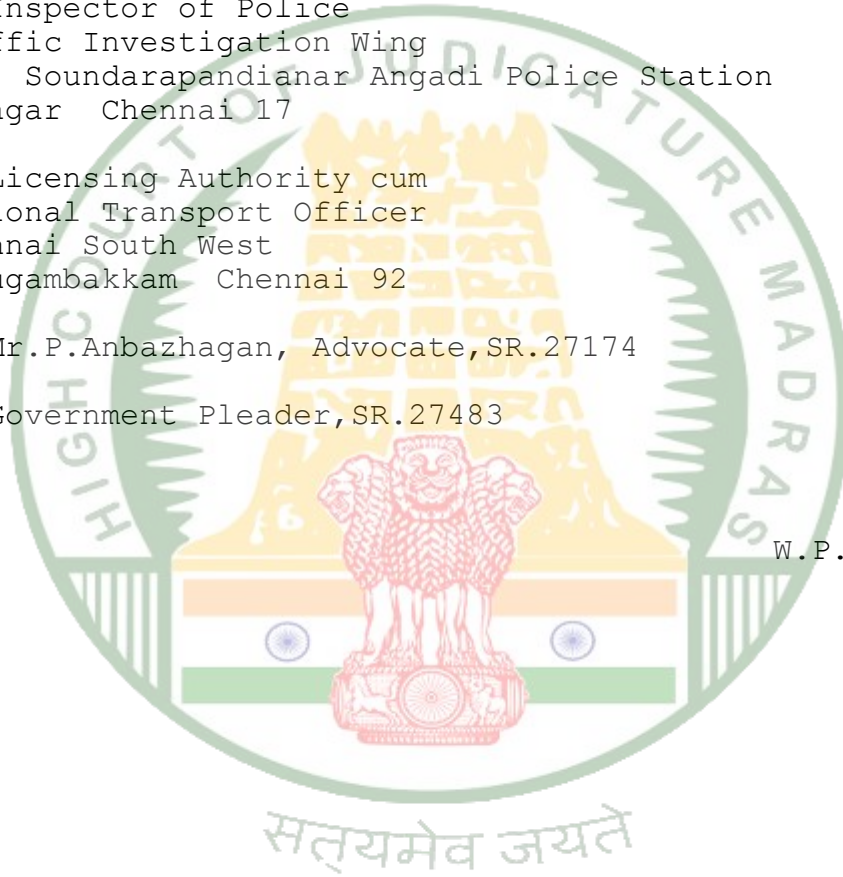
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+1 cc to Mr.P.Anbazhagan, Advocate,SR.27174

+1 cc to Government Pleader,SR.27483

rj(co)
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