

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2015

Coram

The Hon'ble Mr. Justice T.RAJA

W.P.No.16853 of 2015

R.Suresh

... Petitioner

Vs.

1. The Transport Commissioner,
Chepauk, Chennai - 5.
2. The Assistant License Issuing
Authority,
Regional Transport Office,
Marthandam, Kanniyakumari Dist.
3. The Regional Transport Officer,
O/o.The Regional Transport Office,
Mandaveli, Chennai - 4.
4. The Inspector of Police,
D-6 Anna Square Traffic Investigation
Wing, Chennai.
5. The General Manager,
Metropolitan Transport Corporation,
Chennai Limited, Chennai - 2.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the third respondent to return the petitioner's licence in D.L.No.TN 74 19980002118 and enable him to join duty before the 5th respondent transport corporation.

For Petitioner : Mr.M.V.Muralidharan

For Respondents : Mr.R.Lakshminarayanan,
Addl. Govt. Pleader for R1 to R4
Mr.P.Kannankumar for R5

ORDER

This writ petition has been filed by R.Suresh, seeking issuance of mandamus directing the third respondent herein to return the petitioner's licence in D.L.No.TN 74 19980002118 so as to enable him to join duty before the fifth respondent Transport Corporation.

2.Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for respondents 1 to 4 and the learned counsel for the fifth respondent.

3.The petitioner was appointed as Driver in the Metropolitan Transport Corporation, Tondiarpet Depot - I, Tondiarpet, Chennai - 81. On 13.02.2015 at about 4.50 p.m., when the petitioner was driving the bus in route No.6E, A service, Side No.TDI 0533 bearing Regn. No.TN 01 N 4591, through Kamarajar Road on North-South direction, an auto rickshaw attempted to overtake the bus and suddenly, a two wheeler viz., Honda Activa bearing Regn. No.TN 07 R 1388, driven in a rash and negligent manner hit the autorickshaw, due to which, the pillion rider of the two wheeler fell down on the road and in order to avoid the accident, the petitioner applied sudden brake. On his way to hospital, the injured person died. Hence a case was registered by the fourth respondent police on 13.02.2015 for the offences under Sections 279, 304A and 337 I.P.C. Subsequently, the driving licence of the petitioner was seized by the third respondent and in spite of the representation made by the petitioner on 09.03.2015, the driving licence of the petitioner was not returned. Since the petitioner is deprived of his livelihood and he is not permitted to join duty without licence, he has come up with this writ petition.

4.The learned counsel appearing for the petitioner contended that in a similar matter in W.P.No.15312 of 2013, this Court directed the Regional Transport Officer to return the licence within a period of one week to the petitioner therein, on the ground that before the seizure of the licence, no notice under Section 19 of the Tamil Nadu Motor Vehicles Act was issued. The learned counsel would further contend that in the present case also, no notice was issued before seizure of the licence and relied on the decision of a Division Bench of this Court in P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul (2009(2) TN MAC 252). It was the case where the driving licence of the petitioner therein has been seized without issuing any notice or holding any enquiry. The Division Bench held that Section 19(1) of the Tamil Nadu Motor Vehicles Act empowers the licensing authority to revoke any licence or disqualify a person for a specific period. However, notice should be given before seizure of the licence.

5. In the present case, admittedly, no notice was given nor any enquiry was held against the petitioner. So far as the seizure of driving licence of a person, who commits accident including fatal is concerned, the law is well settled that the Regional Transport Officer, who is entitled to seize the licence, is necessarily bound to invoke Section 19(1)(c) of the Tamil Nadu Motor Vehicles Act to hold an enquiry. Admittedly, the third respondent has not even issued notice under Section 19(1) of the Act nor got any report from the police. Therefore, the impounding of licence, which is actually preceding the issuance of show cause notice, is not tenable. Therefore, the third respondent is directed to return the driving licence to the petitioner forthwith. However, it is open to the third respondent to proceed in accordance with law, after issuing notice.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mmi

To

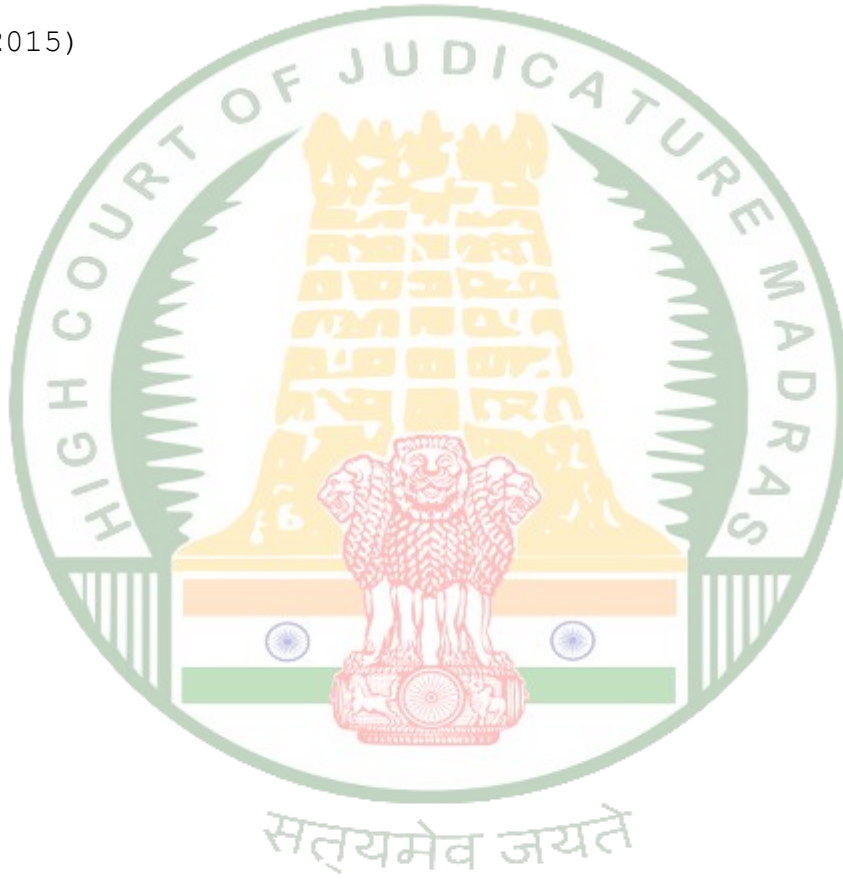
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+1cc to Mr.M.V.Muralidaran, Advocate, S.R.No.29414
+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.29157

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NM(CO)
CA(08/07/2015)



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