

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.17171 of 2015

and

M.P. Nos. 1 & 2 of 2015

M.Selvarasu

[Petitioner]

Vs

The Regional Transport Officer  
Office of the RTO  
Peruambalur  
Thanneerpandal  
Duraimangalam Road  
Perambalur 621 220

[Respondent]

PRAYER : The Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of declaration declaring that the action of the respondent in seizing and withholding the petitioner original driving license on and from 13.5.2015 as illegal and without power jurisdiction and authority and consequently direct the respondent to return the petitioner forthwith the petitioner original driving license without any endorsement award exemplary costs.

For Petitioner : Mr.R.Krishnaswamy

For Respondent : Mr.A.Kumar, SGP

O R D E R

Heard Mr.R.Krishnaswamy, learned counsel for the petitioner and Mr.A.Kumar, learned Special Government Pleader, who took notice for the respondent and with their consent, the main writ petition is taken up for final disposal.

2. This writ petition has been filed by M.Selvarasu, seeking issuance of a writ of declaration declaring that the action of the respondent in seizing and withholding his original driving license on and from 13.5.2015 as illegal and without power, jurisdiction and authority and consequently to direct the respondent to return his original driving license forthwith without any endorsement.

3.1 Learned counsel for the petitioner would submit that the petitioner, who joined the services of the erstwhile Thiruvalluvar Transport Corporation, which has been renamed as State Express Transport Corporation as a Driver on 03.01.1997, became permanent employee with effect from 01.11.1997 and he was also promoted as a Senior Driver on completion of 6 years of service.

3.2. Adding further, learned counsel for the petitioner submitted that the petitioner while working at Chennai B Depot, on 11.05.2015, when he was assigned duty in the bus bearing No.TN 57-N-1425 and Route No.160, which was plying between Chennai and Theni, the petitioner took the bus on the specified route on 11.05.2015 night from Chennai and reached Theni on 12.05.2015 morning. Once again, the petitioner took the bus from Theni at 06.30 p.m. and proceeded to Chennai. Whiles, when he was proceeding on the NH 45 near Duraimangalam in Perambalur district on the early morning of 13.05.2015 at about 0.30 a.m., a load van with some persons on its backside was proceeding in the same Highway in front of and before his bus. Although the petitioner was driving the bus with normal speed, keeping a safe and sufficient distance between his bus and the van, the van driver suddenly stopped the van without giving any signal, therefore, the petitioner applied brake and turned the bus to the left side. Only due to the sudden application of brake, the front left side tyre got burst and the bus was dragged towards the left side of the road and it did not come to a halt immediately and it went to the left side of the road. At that time, when the petitioner applied brake and turned the bus towards left so as to avoid any collision or hit with the van, a person who boarded on the backside of the van, jumped on the left side of the van immediately after the van was stopped nearer to the median, without seeing as to whether any vehicle was coming and he met with an accident and died.

3.3 Thus, according to the learned counsel for the petitioner, when the accident took place only due to the sudden stoppage and parking of the van without any signal and due to the jumping of the victim, the petitioner cannot be held responsible. However, a criminal case was registered by the Perambalur Police Station with regard to the accident in FIR No.416 of 2015 dated 13.05.2015 under Sections 279, 337 and 304 A IPC.

3.4. The grievance of the petitioner, according to the learned counsel for the petitioner is that though an accident took place on 13.05.2015, as per the ratio laid down by this Court in W.P.(MD) Nos.11479, 11501 of 2011 etc. batch of cases by order dated 20.02.2012, without notice to the petitioner, the respondent cannot seize the driving licence.

3.5 Referring to Section 19(1) and and 21 of the Motor Vehicles Act, learned counsel for the petitioner contended that seizing and retaining the petitioner's driving licence, even prior to passing an order disqualifying his driving licence by the respondent is illegal.

On the basis of the above arguments, the learned counsel for the petitioner has sought for allowing the present writ petition.

4. Mr.A.Kumar, learned Special Government Pleader, after taking notice would submit that it is a clear case of an accident taking away the life of an innocent on 13.05.2015. Adding further, he submitted that immediately, on the date of accident, the petitioner's licence was seized and on the next day viz., 14.05.2015, a notice was issued calling upon him to submit his explanation, but, unfortunately, the petitioner submitted his explanation only on 30.05.2015.

5. Interfering at this juncture, not advisable pleaded by the learned counsel for the petitioner for, though the notice was dated 14.05.2015, it was served on the petitioner only on 23.05.2015.

6. Be that as it may, since the notice was issued on 14.05.2015 and the petitioner had submitted his reply on 30.05.2015, this Court is of the considered view that a direction may be given to the respondent to complete the enquiry and pass final orders within a stipulated time.

7. In view of the above, the respondent is directed to complete the enquiry and pass final orders on merits and in accordance with law, within a period of ten days from the date of receipt of a copy of this order.

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The writ petition is disposed of with the above direction. No costs. Connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

rg

To

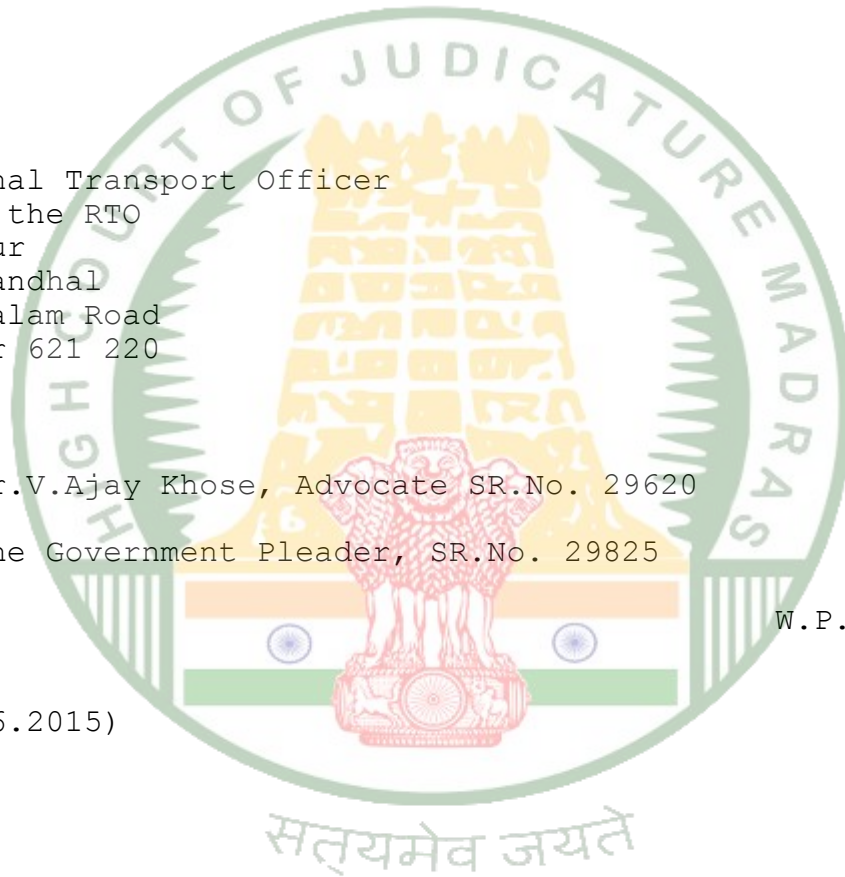
The Regional Transport Officer  
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1 CC to Mr.V.Ajay Khose, Advocate SR.No. 29620

1 CC to the Government Pleader, SR.No. 29825

W.P.No.17171 of 2015

BVR (CO)  
PSI (19.06.2015)



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