

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Writ Petition No.24568 of 2014

R.Prabu

.. Petitioner

vs.

The Licensing Authority
Central Regional Transport Office
Dr.Balasundaram Road
Coimbatore - 641 018

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, calling for the records of the respondent in respect of the order dated 04.08.2014 bearing R.C.No.27907 and quash the same and consequently direct the respondent to return the petitioner's original driving license bearing No.TN 37 20020009475 forthwith without making any endorsement.

For Petitioner : Mr.R.Arul Raj

For Respondent : Mr.Digvijayapandian
Addl. Govt. Pleader.

O R D E R

This writ petition is directed against the order dated 04.08.2014 on the file of the respondent suspending the driving license of the petitioner for a period of six months under the pretext that he was involved in an offence under Section 304-A of the Indian Penal Code.

2. The petitioner was involved in an accident on 29.03.2014 resulting in registration of a case in Crime No.2 of 2014. The respondent on the basis of the criminal case, suspended the Driving License of the petitioner.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

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 Officer, the Regional Transport Office, Dindigul reported in 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 not be suspended. The license of the petitioner was suspended 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 any jurisdiction to the respondent to suspend the license. Therefore, I am of the view that the respondent was not justified in suspending the license of the petitioner.

5. The contention of the respondent that the petitioner has got a right of appeal before the appellate authority, namely Deputy Transport Commissioner, may not be reasonable, more particularly, in the light of the decision quoted supra. That apart, even assuming that such alternative remedy is there, it is not going to help the petitioner because six months period is getting over today.

6. As the impugned proceedings dated 04.08.2014 is not in consonance with the principle laid down by this Court, which is quoted supra, the impugned proceedings dated 04.08.2014 is quashed. The respondent is directed to release the license of the petitioner forthwith without making any endorsement, namely "suspended" or "disqualified" or any other term. The licence shall be handed over to the petitioner within a week from the date of receipt of a copy of this order. In case the criminal case ends in conviction, the authority is empowered to get the original licence from the petitioner and make an appropriate endorsement as per the averments mentioned in the impugned order dated 04.08.2014.

7. The writ petition is allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

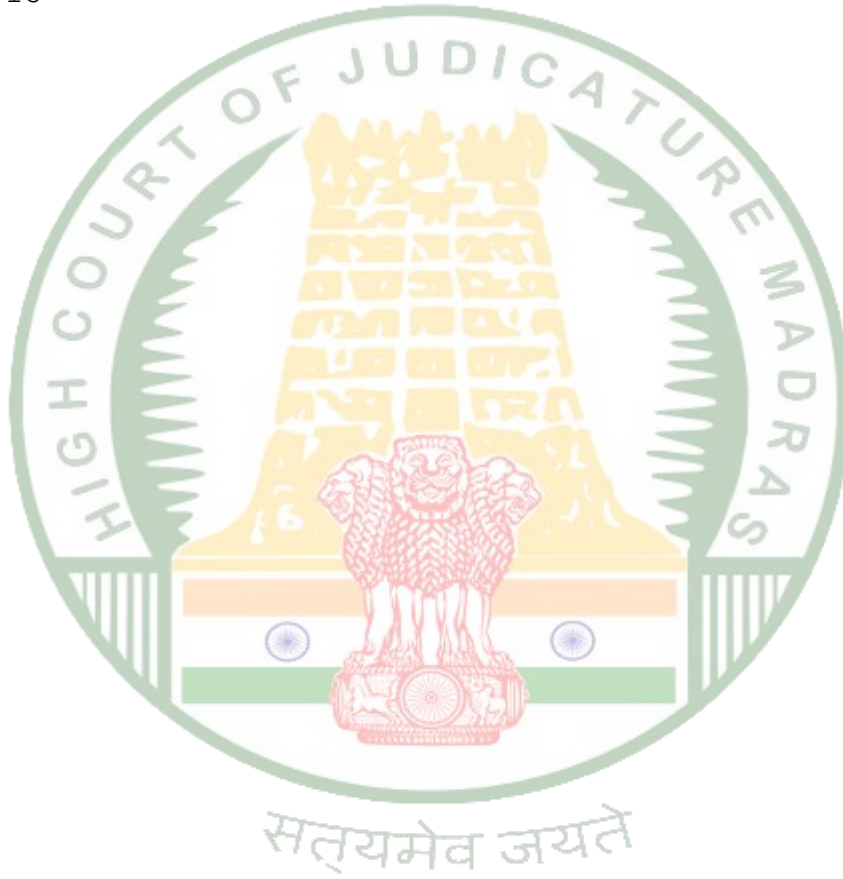
To

The Licensing Authority
Central Regional Transport Office
Dr.Balasundaram Road
Coimbatore - 641 018.

1 cc to Government Pleader, Sr.No5644

W.P.No.24568 of 2014

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