

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.21023 of 2015

H.Hakkeem Sait

... Petitioner

-Versus-

- 1.The Transport Commissioner,
Chepauk, Chennai 600 005.
- 2.The Assistant License Issuing Authority,
Regional Transport Office,
Unit Office, Bathalagundu,
Dindigul District.
- 3.The Regional Transport Officer,
O/o. The Regional Transport Office,
K.K.Nagar West,
Chennai 600 078.
- 4.The Inspector of Police,
R1, Mambalam Police Station,
T.Nagar, Chennai 600 017.
- 3.The General Manager,
Metropolitan Transport Corporation,
Chennai Limited,
Chennai 600 002.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 3rd respondent to return the petitioner's driving license in D.L.No.TN 60 19900001063 and enable him to join duty before the 5th respondent transport corporation.

For petitioner : Mr.M.V.Muralidaran

For respondents : Mr.M.L.Mahendran, GA for R1 to R4
Mr.Kannan Kumar, for R5

ORDER

Seeking mandamus directing the 3rd respondent to return his driving licence which was impounded on the ground that he had caused a road accident.

2. The case of the petitioner in short is that he is a driver working in the 5th respondent corporation. On 18.06.2015, the bus bearing Regn. No.TN 01 N 5149 - Route No. M9M - Fleet No. ABI 0877 was entrusted to him to ply between AGS Colony and T.Nagar. While so, at about 10.45 a.m. when he undertook a trip to AGS Colony and moved the bus from T.Nagar, the above said bus met with an accident and a person sustained injury. Later on, the said injured person died on the way to the hospital. According to the petitioner, there was no rash and negligence on his part and the deceased person alone was solely responsible for the accident. On a complaint from the son of the victim, a criminal case was registered in Crime No.2852 of 2015 by the Inspector of Police, R1 Mambalam, Chennai, for an alleged offence under Section 304-A of IPC. While so, on the recommendation made by the 4th respondent, the 3rd respondent initiated action against the petitioner and impounded his driving licence bearing No.TN 60 19900001063 without issuing show cause notice which, according to the petitioner, is contrary to the provision contemplated under Section 19 of The Tamil Nadu Motor Vehicles Act. Hence, the petitioner is now before this court with this writ petition.

3. Heard both sides and also perused the records carefully.

4. The issue is covered by a decision rendered by a Division Bench of this Court in P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul, 2010 Writ LR 100. Very recently, by order dated 15.06.2015 in W.P.No.16853 of 2015, a single Judge of this court following the above said decision of the Division Bench, while disposing of the writ petition issued a direction to the licensing authority therein to return the driving licence to the licensee forthwith, but, however gave liberty to the licensing authority to proceed with in accordance with law, after issuing notice.

5. In so far as the impounding of driving licence of a person, who commits an accident including fatal, is concerned, the Regional Transport Officer, who is entitled to impound the licence, is necessarily bound to invoke section 19(1)(C) of the Tamil Nadu Motor Vehicles Act to hold an enquiry. Admittedly, in the instant case, before impounding the driving licence of the petitioner, no notice was given nor any enquiry was held against the petitioner as contemplated in the above said Act.

6. In the light of the above said legal position, this court is of the view that this writ petition should also be disposed of in the above lines.

7. In the result, this writ petition is disposed of with a direction to the 3rd respondent to return the driving licence of the petitioner forthwith. However, it is open for him to proceed in accordance with law, after issuing notice. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

kmk
To

- 1.The Transport Commissioner,
Chepauk, Chennai 600 005.
 - 2.The Assistant License Issuing Authority,
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 - 3.The Regional Transport Officer,
O/o. The Regional Transport Office,
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T.Nagar, Chennai 600 017.
 - 3.The General Manager,
Metropolitan Transport Corporation,
Chennai Limited,
Chennai 600 002.
- +1 cc to Mr.P.Kannan Kumar Advocate sr.42751
+1 cc to Government Pleader sr.42397
+1 cc to Mr.M.V.Muralidaran Advocate sr.42228

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