

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.25830 of 2015

U. Sivanantham

[Petitioner]

Vs

1 The Regional Transport Officer
The Regional Transport Office Cuddalore

2 The Inspector of Police
Adyar Traffic Investigation Besant Nagar
Chennai - 600 090

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respective respondent Regional Transport Officer to return the original driving licence to the petitioner the driving license No. TN0119890000540 within the time to be stipulated by this Honourable Court.

For petitioner : Mr.R.Bharathkumar

For respondents : Mr.M.S.Ramesh, AGP

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the respondents and with their consent, the main writ petition itself is taken up for hearing.

2. This writ petition has been filed seeking a direction to the Regional Transport Officer to return the original driving licence No. TN0119890000540 to the petitioner, within the time to be stipulated by this Court.

3. The petitioner is employed as a driver in the Tamil Nadu State Transport Corporation (Villupuram) Ltd., Villupuram, holding driving license in TN0119890000540 issued by the first respondent, which is valid till 09.04.2016. On 20.07.2015, while he was driving a Government bus, suddenly an aged person by name Ramasamy while trying to get down from the bus on running stage before Thiruvannamiyur stop, lost his balance and he fell on the road and sustained grievous injuries on his body. The said Ramasamy was admitted in the hospital to give treatment, however, he died after two days. Subsequently, a case was registered against the petitioner under sections 279, 338, 304 A IPC in Crime No.427/AM1/2015 and his original driving license was seized by the second respondent and the same was handed over to the first respondent at the time of the vehicle inspection by stating that the license is needed for verification purpose. Though the inspector of police has sent a report, till date no show cause notice was given. The petitioner was suspended from duty by order dated 22.07.2015. It is the grievance of the petitioner, without passing any final order under Section 19(1) of the Act, the driving licence of the petitioner is withheld. Hence, the petitioner has no other option except to approach this Court by way of filing of this writ petition.

4. In identical circumstances, this Court in W.P.No.27103 of 2014 dated 13.10.2014 (Mani vs. Regional Transport Officer, Erode), has passed the following order:

"6. The issue involved in this Writ Petition is covered by the decision of this Court in a similar writ petition in W.P.(MD) No.16806 of 2013 dated 22.10.2013, wherein this Court has held as follow:

"7. In view of the said conclusion, I hold that the action of the respondent in retaining the license is illegal. At the same time, in the present case, license was seized by the police, it is for the licensing authority to return the license to the police investigating the criminal case forthwith. On getting the driving license of the petitioner, the investigating officer shall issue acknowledgment, as provided in sub-section 3 of Section 206 of the Motor Vehicles Act and then produce the license before the jurisdictional Magistrate. The jurisdictional Magistrate shall thereafter return the license to the petitioner, as provided in Section 206(1) of the Motor Vehicles Act. On such return of the license to the petitioner, the petitioner shall

execute a bond to the satisfaction of the jurisdictional Magistrate undertaking to produce the license, as and when required by the Court.

7. Therefore, this Writ Petition is allowed. The 1st respondent is directed to return the driving license to the Investigation Officer/2nd respondent in Crime No.116 of 2014 on the file of the 2nd respondent, who shall, in turn issue an acknowledgment to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the MV Act and return the license to the petitioner."

5. Hence, in the light of the above, the present Writ Petition is allowed. The 1st respondent is directed to return the driving license, which was seized in respect of Crime No.427/AM1/2015 on the file of the 2nd respondent, to the Investigation Officer/2nd respondent, who shall, in turn issue an acknowledgment to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the Motor Vehicles Act and return the license to the petitioner. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1 The Regional Transport Officer
The Regional Transport Office
Cuddalore

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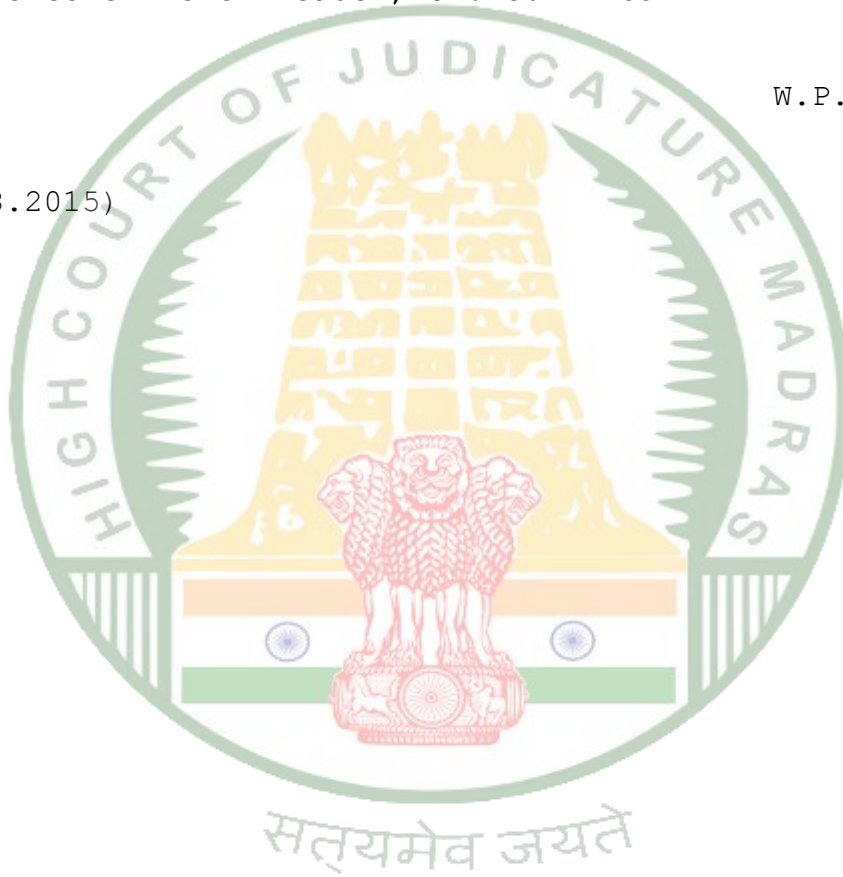
2 The Inspector of Police
Adyar Traffic Investigation
Besant Nagar
Chennai - 600 090

1 CC to Mr.R.Bharathkumar, Advocate SR.No. 44374

1 CC to the Government Pleader, SR.No. 44439

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VSN (CO)
PSI (28.08.2015)



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