

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.25832 of 2015
and M.P.No.1 of 2015

V. Chandramohan

[Petitioner]

Vs

The Regional Transport Officer
Transport Department Coimbatore (South)
Coimbatore - 641018.

[Respondent]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified Mandamus to call for the records of the respondent in Ref. Na.Ka.No.43279/U1/2015 and quash the order dated 29.06.2015 passed therein and directing the respondent to return the driving licence of the petitioner to him forthwith.

For petitioner :Mr.J.Franklin

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

ORDER

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

2. This writ petition has been filed challenging the order of the respondent dated 29.06.2015 and to direct the respondent to return the driving licence of the petitioner to him forthwith.

3. The petitioner is employed as a driver in the Tamil Nadu State Transport Corporation, Erode, holding driving license in TN-33-19950004824 issued by the respondent, which is valid till 22.10.2017. On 21.05.2015, while he was driving a Government bus, a car which was going before his vehicle, suddenly applied brake and stopped and hence in order to avoid to dash the vehicle, the petitioner, applied brake and therefore, his vehicle went towards right side. At that time, on seeing a lorry bearing Registration No.KA 01 AA 2226, which was coming from east to west, driven with

great speed by the driver by name Subramaniam, without following the traffic rules, the petitioner stopped the vehicle, unfortunately, the lorry dashed against the stopped transport bus and caused the accident, resulting in the death of the lorry driver on the spot. Subsequently, a case was registered against the petitioner under sections 279 and 304 A IPC in Crime No.339 of 2015 on the file of the Inspector of Police, Sulur Police Station, Coimbatore and the investigation is pending. As a result of impounding of the driving licence, the petitioner is out of job for no fault on his part. On 09.06.2015, the respondent issued a show cause notice to the petitioner as to why he should not be disqualified from driving the vehicle, for which, he has given his objection dated 19.06.2015 and appeared before the respondent. The respondent, without hearing the petitioner and without considering his objection, by order dated 29.06.2015, cancelled his driving licence for a period of six months from 19.06.2015 to 18.12.2015. Aggrieved over the same, the petitioner is before this Court.

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 impugned order is quashed the present Writ Petition is allowed. The respondent is directed to return the driving license, which was seized in respect of Crime No.339 of 2015 on the file of the Inspector of Police, Sulur Police Station, Coimbatore to the Investigation Officer, 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. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Transport Officer
Transport Department Coimbatore (South)
Coimbatore - 641018
2. Inspector of Police, Sulur Police Station, Coimbatore.

+1cc to Mr.J. Franklin, Advocate, S.R.No.44303

+1cc to the Government Pleader, S.R.No.44440

KM(CO)
EU(02/09/2015)

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