

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2015

CORAM:-

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.26864 of 2015

P.Thangaraj

... Petitioner

-Versus-

1.The Inspector of Police,
Traffic Investigating Wing,
Hosur Police Station,
Krishnagiri District.

2.The Licensing Authority-cum-
Regional Transport Officer,
Hosur, Krishnagiri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 2nd respondent to return the original Driving Licence (DL No.TN33 19890002475) to the petitioner forthwith.

For petitioner : Mr.K.Hariharan

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

ORDER

Seeking mandamus directing the 2nd 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 by profession and was working in Kallada Travels at Thirussur in Kerala State. The bus bearing Regn. No.KA 01 AB 5906 was entrusted to him to take a trip to Karnataka. On 08.08.2015, while he was returning from Bangalore to Kerala, the said bus hit against a motorcyclist, which resulted in the death of the motorcyclist. 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, a criminal case was registered in Crime No.248 of 2015 by the Traffic Investigating Agency, Hosur, for alleged offences under Sections 279, 337 and 304-A of IPC. While so, on the recommendation made by the 1st respondent, the 2nd respondent initiated action against the

petitioner and impounded his driving licence bearing No.TN33 19890002475 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 2nd 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/-Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

kmk

To

1.1.The Inspector of Police,
Traffic Investigating Wing,
Hosur Police Station,
Krishnagiri District.

2.The Licensing Authority-cum-
Regional Transport Officer,
Hosur, Krishnagiri District.

+1 cc to The Government Pleader, sr.46334
+1 cc to Mr.K.Hariharan, Advocate, sr.46171.

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