

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.31801 of 2015

V.Nanikgoundan

... Petitioner

-Versus-

- 1.The Transport Commissioner,
Chepauk, Chennai 600 005.
 - 2.The Assistant License Issuing Authority,
Regional Transport Office,
Sangagri, Salem District.
 - 3.The Regional Transport Officer,
Namakkal,
Namakkal District.
 - 4.The Regional Transport Officer,
Parmathi Vellore Taluk,
Namakkal District.
 - 5.The Inspector of Police,
Nallur Traffic Investigation Wing
Kanthampalayam Police Station, Parmathi
Vellore Taluk, Namakkal District.
 - 6.The General Manager,
Tamil Nadu State Transport Corporation
Salem District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the respondents 1 to 5 to return the petitioner driving license in D.L.No. TN 27 19900000852 and enable him to join duty before the 6th respondent transport corporation

For petitioner : Mr.M.V.Muralidaran
For respondents : Mr.M.L.Mahendran, GA

ORDER

Seeking mandamus directing respondents 1 to 5 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 6th respondent corporation. On 18.08.2015, at about 8.20 a.m, the petitioner started his trip from Thiruchengode to Paramathi Vellore in a bus bearing Regn. No.TN 30 N 756. While so, at about 8.50 a.m. while the bus reached Kanthampalayam bus stand, a motorcyclist, who lost his control directly hit on the bus and fell down in the right side front wheel of the bus and sustained head injury. Later on, the said injured person died on the way to the hospital. According to the petitioner, there was no fault on his part and the deceased person alone was solely responsible for the accident. In this regard, the 5th respondent registered a case in Crime No.142/2015 dated 18.08.2015 for the offence under Sections 279 and 304(A) of IPC. On the very same day, his license was seized by the 5th respondent and was handed over to the 4th respondent and it was informed by the 4th respondent that the license was sent to the 3rd respondent RTO, Namakkal. When the petitioner approached the said office, he could not get any fruitful reply. According to the petitioner, the 5th respondent seized his license in D.L.No. TN 27 19900000852 without issuing any prior notice or conduction enquiry which is 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 II)

/true copy/

Sub Asst. Registrar

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To

- 1.The Transport Commissioner,
Chepauk, Chennai 600 005.
- 2.The Assistant License Issuing Authority,
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Sangagri, Salem District.
- 3.The Regional Transport Officer,
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Namakkal District.
- 4.The Regional Transport Officer,
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- 5.The Inspector of Police,
Nallur Traffic Investigation Wing
Kanthampalayam Police Station, Parmathi
Vellore Taluk, Namakkal District.
- 6.The General Manager,
Tamil Nadu State Transport Corporation
Salem District.

+1 cc to The Government Pleader, sr.55980

+1 cc to Mr.M.V.Muralidharan, Advocate, sr.55700

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