

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.32269 of 2015

K. Muthukrishnan

..... Petitioner

Vs

1. The Transport Commissioner,
Chepauk, Chennai - 600 005
2. The Assistant License Issuing Authority,
Regional Transport Office,
Dindigal, Dindigal District
3. The Regional Transport Officer,
Chengalpet,
Kancheepuram District
4. The Inspector of Police.
E-1 Mamallapuram Traffic Investigation Wing,
Mamallapuram,
Kancheepuram District
5. The General Manager,
Tamil Nadu State Transport Corporation,
Kanchipuram Zone

....Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 5 to return the petitioner's driving licence in D.L.No.TN 57 19960000445 enable the petitioner to join and continue the petitioner's service in the 5th respondent transport Corporation.

For petitioner Mr.M.V. Muralidaran

For R.1 to R.4 Mr.L. Mahendran
Govt. Advocate

For 5th respondent Mr.Kannan Kumar

O R D E R

The writ petition has been filed by the petitioner seeking to issue a Writ of Mandamus directing the respondents 1 to 5 to return the petitioner's driving licence in D.L.No.TN 57 19960000445, which was impounded on the ground that he had caused a road accident, to enable the petitioner to join and continue the petitioner's service in the 5th respondent transport Corporation.

2. The case of the petitioner in short is that he is a driver working in the fifth respondent Transport Corporation. On 22.9.2015, the bus bearing Registration No.TN 21 N 1482 - Route No.588A/A was entrusted to him to ply between Koyambedu Bus Stand to Puducherry. The above said bus met with an accident and a person, who drove the motorcycle, sustained injury. Later on, the said injured person died on the way to the hospital.

3. According to the petitioner, there was no rash and negligence on his part and the motorcyclist was solely responsible for the accident. On a complaint, the fourth respondent registered a case in Cr.No.D54/2015 for an offence punishable under Sections 279, 337 and 304(A) 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. D.L.No.TN 57 19960000445 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.

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

5. The issue is covered by a decision rendered by a Division Bench of this Court in P. Sethuram vs The Licensing Authority, The Regional Transport Officer, Dindigul, (2010 WLR 100). Very recently, by order dated 15.6.2015 in W.P.No.16853 of 2015, a Single Judge of this Court, following above said decision of the Division Bench, while disposing of the writ petition issued a direction to the license 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.

6. 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) © 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.

7. 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.

8. In the result, this writ petition is disposed of with a direction to the third 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.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

sr

To

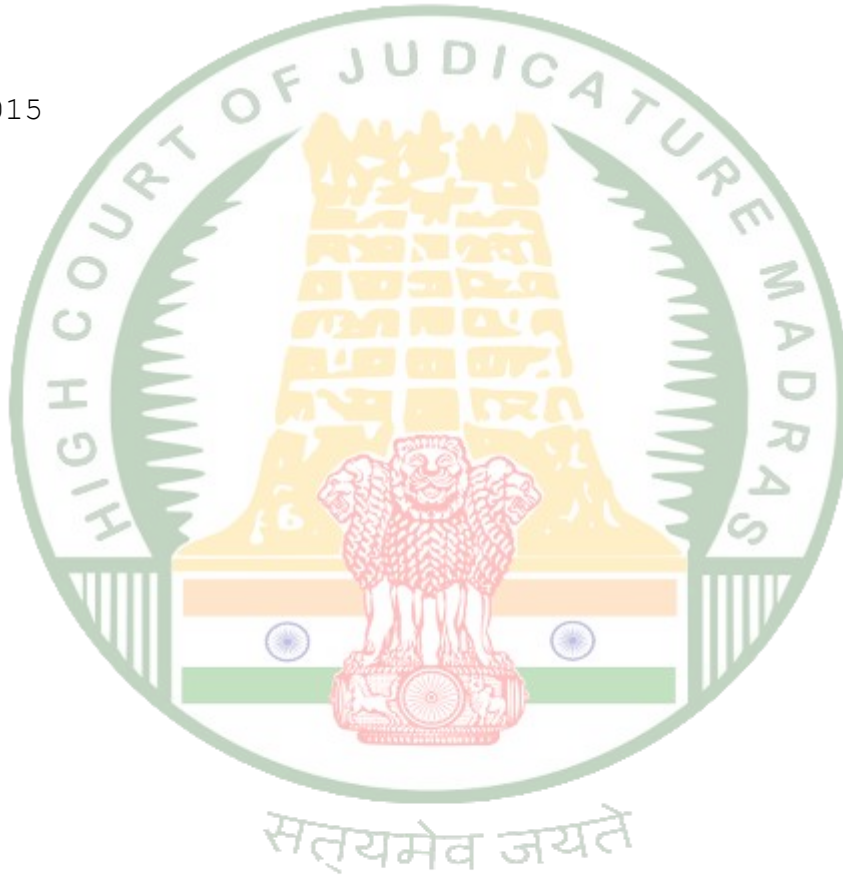
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Tamil Nadu State Transport Corporation,
Kanchipuram Zone

+1 cc to Mr.M.V.Muralidharan Advocate sr.55260
+1 cc to Mr.P.Kannan Kumar Advocate sr.55826
+1 cc to the Government Pleader High Court Madras
sr.55478

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