

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.34319 of 2015

and M.P.No.1 of 2015

M.Gopalakrishnan

[Petitioner]

Vs

- 1 The Transport Commissioner
Chepauk Chennai-600 005.
- 2 The Assistant License Issuing
Authority Regional Transport Office
Marthandam Kanyakumari District
- 3 The Regional Transport Officer
O/o.the Regional Transport Office
Thiruvalur Thiruvallur District.
- 4 The Inspector Of Police
Vengal Police Station Thiruvallur
Thiruvallur District
- 5 The General Manager
Metropolitan Transport Corporation Chennai
Limited Chennai-600 002.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of certiorarified Mandamus to call for the records relevant to the order in Se.Mu.Order.No.E5/36414/2015 dated 14-10-2015 passed by the 3rd respondent and quash the same as illegal improper unreasonable and against the natural justice and thereby direct the 3rd respondent to return the petitioner driving license in D.L.No. TN 74 19980003628 enable him to join and continue his service in the 5th respondent transport corporation.

For petitioner : Mr.M.V.Muralidaran

For respondents : Mr.M.S.Ramesh,AGP for R1 to R4
Mr.Kannan Kumar, for R5

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the respondents 1 to 4 and Mr.Kannankumar, learned counsel, who took notice for respondent 5 and with their consent, the main writ petition itself is taken up for disposal.

2. This writ petition has been filed challenging the order of the 3rd respondent dated 14.10.2015 suspending the driving licence of the petitioner for six months from 11.9.2015 to 10.3.2016 and to consequently direct the 3rd respondent to return the original Driving Licence D.L.No. TN 74 19980003628 to the petitioner to enable him to join and continue his service in the 5th respondent Transport Corporation.

3. The case of the petitioner in short is that he is a driver working in the 5th respondent corporation. On 25.09.2015, the petitioner received a phone call from the head quarters to appear before the office of the 5th respondent, in response to which, when he appeared, he was questioned whether he had committed any accident on 11.09.2015, while on duty, driving a bus Route No.563-C service, Side No.AMI 0898 bearing Regn.No.TN 01 N 5215, which was shocking to the petitioner. Thereafter, charges were framed against him stating that on the said date at about 08.45 a.m., when the bus was taken up from Thamaraipakkam bus stand towards Thirunindravur, an accident was occurred as a result of which the victim died subsequently and hence a case was registered under Sections 279, 337 and 304(A) of IPC in Crime No.351 of 2015 on the file of the 4th respondent. According to the petitioner, at the time of accident, he had not even started his trip and he was held at Periyapalayam. On 26.09.2015, the petitioner submitted his written explanation to his higher authorities. The 4th respondent without hearing or conducting enquiry in a proper manner, simply seized off his licence on 06.10.2015 and the same was handed over to the 3rd respondent. While so, on the recommendation made by the 4th respondent, the 3rd respondent initiated action against the petitioner and impounded his driving licence 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 filed W.P.No.33535 of 2015 before this court for return of the driving licence. When the same is pending, the present impugned order dated 14.10.2015 suspending the licence came to be passed, against which, the petitioner is before this Court. The petitioner also proposes to withdraw W.P.No.33535 of 2015, which has become infructuous.

4. The learned counsel for the petitioner submitted that 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.Learned counsel for the petitioner would further submit that in a similar case in P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul (2010 Writ L.R. 100), a Division Bench of Madurai Bench of this Court directed the respondent therein to return the driving licence to the appellant therein.

He would further submit that in yet another case in S.Duraivelu Vs. The Regional Transport Officer, West Tambaram, Chennai and Others (2013 Writ L.R. 843), this Court has followed the decision of the Division Bench and directed the respondents 1 and 2 therein to release the license of the petitioner therein, after removing the endorsement "suspended".

6.Learned Additional Government Pleader fairly submitted that the issue involved in the present writ petition is covered by the above said orders of this Court.

7.This Court has considered the submissions made by the learned counsel on either side. In P.Sethuram's case (cited supra), the Division Bench has categorically held that the pendency of a criminal case would not give jurisdiction to the authority to cancel the licence and the authority has to wait for the outcome of the criminal case.

8.In view of the above, the writ petition is disposed of with a direction to the 3rd respondent to return the driving licence of the petitioner to the Investigation Officer/4th 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. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar
True Copy

Sub-Assistant Registrar

rg

To

1 The Transport Commissioner
Chepauk Chennai-600 005.

2 The Assistant License Issuing
Authority Regional Transport Office
Marthandam Kanyakumari District

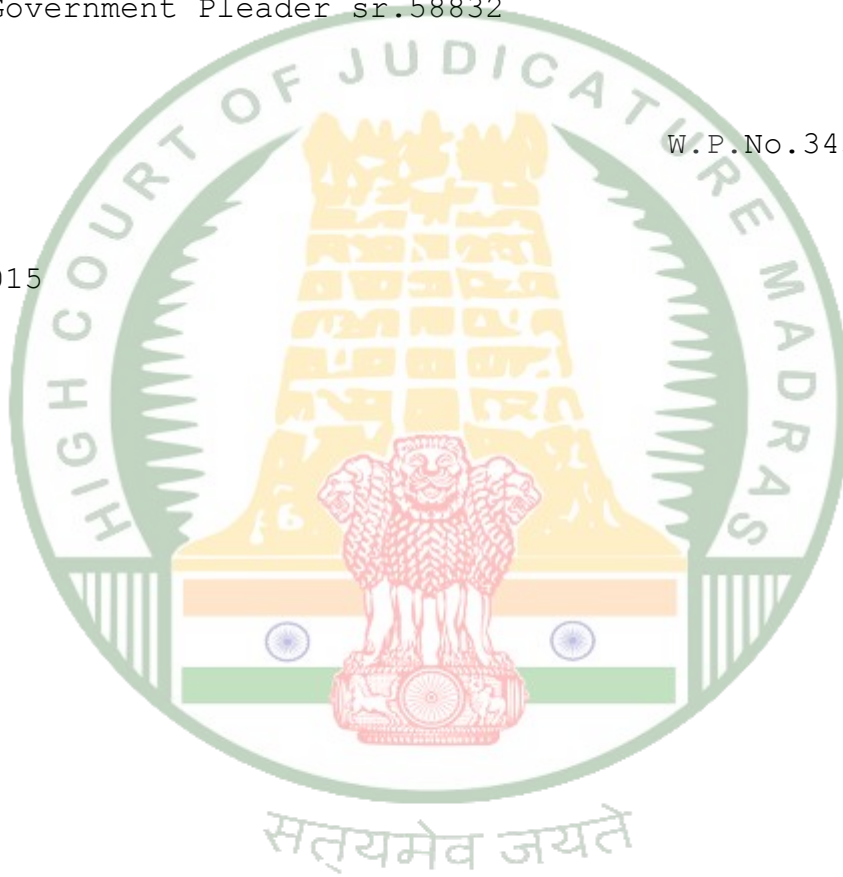
3 The Regional Transport Officer
O/o.the Regional Transport Office
Thiruvallur Thiruvallur District.

- 4 The Inspector Of Police
Vengal Police Station Thiruvallur
Thiruvallur District
- 5 The General Manager
Metropolitan Transport Corporation Chennai
Limited Chennai-600 002.

+1 cc to Mr.M.V.Muralidaran Advocate sr.58509
+1 cc to Government Pleader sr.58832

W.P.No.34319 of 2015

aa05/11/2015



WEB COPY