

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2015

CORAM:

THE HON'BLE MR.JUSTICE R. MAHADEVAN

W.P.No.34320 of 2015
and M.P.No.1 of 2015

K.Manikandan

[Petitioner]

Vs

- 1 The Inspector of Police
Traffic Investigating Wing
Karipatti Police Station
Salem District.
- 2 The Licensing Authority-Cum-
Regional Transport Officer
Salem East, Salem-636 104.
- 3 The Regional Transport Officer
Nagercoil, Kanyakumari District.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the 2nd Respondent made in R.No.28072/C2/2015 dated 22.9.2015 suspending the driving licence of the Petitioner for six months from 5.9.2015 to 4.3.2016 and to quash the same consequently direct the 3rd respondent to return the original Driving Licence (DL No.TN74 19950002118) to the petitioner forthwith.

For petitioner : Mr.K.Hariharan

For respondents : Mr.M.S.Ramesh,
Additional Public Prosecutor

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the respondents 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 2nd respondent dated 22.9.2015 suspending the driving licence of the petitioner for six months from 05.09.2015 to 04.03.2016 and to consequently direct the 3rd respondent to return the original Driving Licence (DL No.TN74 19950002118) to the petitioner forthwith.

3. The petitioner is employed as a driver in SRN Travels, Chennai. On 06.09.2015, while the petitioner was driving the bus TN-19/R-6422, an accident occurred and due to which, a motor cycle rider and pillion rider died. Pursuant to the said accident, the 1st respondent, registered a case in Crime No.498 of 2015 under sections 279 and 304 A IPC and sent the FIR to the Judicial Magistrate No.I, Salem, pending investigation. The 1st respondent, while registering the FIR, collected the original driving license of the petitioner and retained the same in the police station and on 10.09.2015, the same was sent to the 2nd respondent, recommending to cancel the same. On 11.09.2015, the 2nd respondent issued a show cause notice, for which, the petitioner gave his explanation with a request to drop further action on 18.09.2015. However, on 22.09.2015, the 2nd respondent passed the impugned order suspending the driving licence of the petitioner for six months from 05.09.2015 to 04.03.2016 and sent the driving licence to the 3rd respondent, since the same was issued by him. It is the grievance of the petitioner, even before the criminal court tries the alleged offence charged against him, the respondent cannot come to the conclusion that he committed cognizable offence. Hence, the petitioner has no other option except to approach this Court by way of filing of this writ petition.

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/1st 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 MP. Is closed.

Rg

Sd/-

Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

- 1 The Inspector of Police
Traffic Investigating Wing
Karipatti Police Station
Salem District.
- 2 The Licensing Authority-Cum-
Regional Transport Officer
Salem East, Salem-636 104.
- 3 The Regional Transport Officer
Nagercoil Kanyakumari District.

+1 C.C. To Mr.K.Hariharan, Advocate in SR.NO.58539

+1 C.C. To Government Pleader in SR.NO.58831

W.P.No.34320 of 2015

SV(CO)

sd : 23/11/2015

WEB COPY