

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.34340 of 2015
and M.P.No.1 of 2015

A.Arun

[Petitioner]

Vs

- 1 The Joint Transport Commissioner
North Zone Ayanavaram
Chennai 600 023.
- 2 The Assistant License
Issuing Authority Regional Transport Office
Redhills Chennai 600 052.
- 3 The Inspector of Police
F-4 Kavarapettai Police Station
Thiruvallur District.
- 4 The Branch Manager
Tamil Nadu State Transport Corporation
Ponneri Depot Thiruvallur District. [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 order in Rc.No.73685 dated 13/10/2015 passed by the 2nd respondent and quash the same as illegal improper against the natural justice and thereby direct the respondents 1 to 3 to return the petitioners driving license in D.L.NO.TN32 20060006839 and enable him to join and continue his service in the 4th respondent.

For petitioner : Mr.M.V.Muralidaran

For respondents : Mr.M.S.Ramesh, AGP (R1-3)
Mr.S.Sairaman for R4

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the respondents 1 to 3 and Mr.S.Sairaman, learned counsel, who took notice for respondent 4 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 13.10.2015 suspending the driving licence of the petitioner for six months from 27.08.2015 to 26.02.2016 and to consequently direct the respondents 1 to 3 to return the original Driving Licence of the petitioner to enable him to join and continue his service in the 4th respondent Transport Corporation.

3. The case of the petitioner in short is that he is a driver working in the 4th respondent corporation. On 26.08.2015 at about 18.40 hours, while he was driving in route No.103/A, bearing Registration No.TN 21 N 1443 and when the bus was yet to reach Kavarapettai Police Station before 100 feet from the said police station, due to the rash and negligent driving of the motorcyclist, the second pillion rider fallen down on the left hand side, due to which the right hand side rear tyre of the bus was ran over the head of the second pillion rider. According to the petitioner, there was no rash and negligence on his part and the motorcyclist alone was solely responsible for the accident. On 27.08.2015, a criminal case was registered in Crime No.257 of 2015 by the 3rd respondent Inspector of Police, for an alleged offence under Sections 279, 337 and 304-A of IPC. Immediately, the license of the petitioner was impounded by the 3rd respondent and the same was handed over to the 2nd respondent without following the procedures contemplated under Section 19(1)(c) of the Motor Vehicles Act. On 13.10.2015, the 2nd respondent issued a show cause notice for suspending the license of the petitioner and on the very same day itself, the impugned order has been passed suspending the license of the petitioner for a period of six months. Hence, the petitioner is now before this court with 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 second 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 miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

- 1 The Joint Transport Commissioner
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- 4 The Branch Manager
Tamil Nadu State Transport Corporation
Ponneri Depost Thiruvallur District.

+1 cc to Mr.S.Sairaman, Advocate, sr.58379
+1 cc to Mr.M.V.Muralidaran, Advocate, sr.58510
+1 cc to Government Pleader, sr.,58834

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