

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.35030 of 2015

M.Velusamy

... Petitioner

Vs

1. The Regional Transport Officer
Thiruppur(South) Thiruppur

2. The Inspector of Police
Vellakoil Police Station
Thiruppur 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 herein to return the petitioner Driving Licence bearing DL.No.TN.3319940004518/94 which is valid upto 03-12-2016 forthwith.

For petitioner : Mr.A.Ganesan

For respondents : Mr.R.Muthukumar,
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate, 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 for the issuance of a writ of mandamus to direct the respondents to return the petitioner's driving Licence bearing DL.No.TN.3319940004518/94, which is valid upto 03-12-2016 forthwith.

3. The case of the petitioner in short is that he is a driver working in the Tamil Nadu State Transport

Corporation, Tiruppur Division. He is holding a driving licence to drive the Light Motor as well as Heavy Motor vehicles. On 27.09.2015, while the petitioner was driving the vehicle bearing Registration No.TN.33N-2540, from Erode to Vellakoil, the vehicle was met with an accident at about 4.25 p.m. near Vellakoil Bus stand, resulting in a death of an old lady. On a complaint given by one Natarajan to the 2nd respondent, a case has been registered in FIR No.660 of 2015 under Sections 279 and 304-A of IPC on 27.09.2015. The petitioner was thereafter arrested on the same day and he was also released on bail on that day itself. The petitioner's vehicle was also seized and produced before the Motor Vehicle Inspector, Grade I, Kangeyam for inspection. The petitioner also submit that a case is pending before the Judicial Magistrate, Kangeyam and the petitioner's driving licence, which is valid upto 03.12.2016 was also seized by the 2nd respondent, who also handed over the same to the 1st respondent for cancellation because of loss of life. On 09.10.2015, the petitioner sent a representation to the 1st respondent to return the driving licence. Even though the same has been received, till date the driving licence of the petitioner has not been returned. 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. Hence, in the light of the above, the present Writ Petition is allowed. The 1st respondent is directed to return the driving license, which was seized in respect of Crime No.660 of 2015 on the file of the Inspector of Police, Vellakoil Police Station, Tiruppur to the Investigation Officer, who shall, in turn issue an acknowledgment 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 Motor Vehicles Act and return the license to the petitioner. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

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To

Sub Assistant Registrar

1. The Regional Transport Officer
Thiruppur(South) Thiruppur
2. The Inspector of Police
Vellakoil Police Station
Thiruppur District

+1cc to Mr.A.Ganesan, Advocate, S.R.No.60140

W.P.No.35030 of 2015

VD(CO)
CA(24/11/2015)