

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.35906 of 2015

P. Balakrishnan

[Petitioner]

Vs

1. The Regional Transport Officer
Thiruppur (North), Thiruppur.
2. The Inspector of Police
Uthukuli Police Station,
Tiruppur District.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st respondent to return the petitioner's Driving License bearing DL.No.TN.3319900002968/90 which is valid upto 25.12.2017 forthwith.

For petitioner : Mr.A.Ganesan
For respondents : Mr.M.S.Ramesh, AGP

ORDER

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 seeking a direction to return the petitioner's Driving License in DL.No.TN.3319900002968/90 to him forthwith.

3. The petitioner is employed as a driver in Tamil Nadu State Transport Corporation. On 16.10.2015, while the petitioner was driving the bus TN-33-N-2958 an accident occurred and due to which, the motor cyclists died. Pursuant to the said accident, the second respondent, registered a case in Crime No.654 of 2015 under sections 279 and 304(A) of IPC and sent the FIR to the Judicial Magistrate, Avinasi pending investigation. The second respondent, while registering the FIR, collected the original driving license of the petitioner and retained the same

in the police station and the same was sent to the first respondent, recommending to cancel the same. Since the petitioner is the sole bread winner of the family and his profession is only driving and without the licence he may not be able to do any other work, 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 Additional Government Pleader fairly submitted that the issue involved in the present writ petition is covered by the above said orders of this Court.

6. In view of the above, the writ petition is disposed of with a direction to the first respondent to return the driving licence of the petitioner to the Investigation Officer/second respondent, 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 MV Act and return the license to the petitioner. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To,

1. The Regional Transport Officer,
Thiruppur (North),
Thiruppur.
2. The Inspector of Police,
Uthukuli Police Station,
Tiruppur District.

+1 cc to Mr.A.Ganesan Advocate sr.60889

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