

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.35955 of 2015
& M.P.No.1 of 2015

M.Sasikumar

[Petitioner]

Vs

1. The Transport Commissioner
Chepauk Chennai-5.
 2. The Joint Transport Commissioner,
No.18, Dr.Balasundaram Road,
Coimbatore - 18.
 3. The Assistant License Issuing Authority,
Regional Transport Office,
Rasipuram, Namakkal District
 4. The Regional Transport Officer
O/o.The Regional Transport Office
Thirupur North, Thirupur District.
 5. The Inspector of Police
Oothukuli Police Station,
Thirupur, Thirupur District.
 6. The General Manager
Tamil Nadu State Transport Corporation
Salem District.
- [Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to call for the records relevant to the order in Se.Mu.Aa.No.44127/31/2015, dated 29-09-2015 passed by the 4th respondent and quash the same as illegal, improper, unreasonable and against the natural justice and thereby direct the 4th respondent to return the petitioner's driving license in D.L.No. TN 27 Z 19950001616 enable him to join and continue his service in the 6th respondent transport corporation.

For petitioner : Mr.M.V.Muralidaran
For respondents 1 to 5 : Mr.M.S.Ramesh, AGP

For respondent-6

: Mr.P.Kannankumar

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader who took notice for the respondents 1 to 5 and the learned counsel for the sixth respondent 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 D.L.No. TN-27-Z-19950001616 to him forthwith.

3. The petitioner is employed as a driver in Tamil Nadu State Transport Corporation. On 01.08.2015, while the petitioner was driving the bus TN-30-N-1287 an accident occurred and due to which, the motor cyclists died. Pursuant to the said accident, the fifth respondent, registered a case in Crime No.490 of 2015 under sections 279 and 304(A) of IPC and sent the FIR to the Judicial Magistrate, Avinasi pending investigation. The fifth 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 fourth respondent, recommending to cancel the same. Subsequent to which, on 29.09.2015, the impugned order has been passed suspending the driving licence of the petitioner 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 fourth respondent to return the driving licence of the petitioner to the Investigation Officer/fifth 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To,

1. The Transport Commissioner, Chepauk Chennai-5.
2. The Joint Transport Commissioner,
No.18, Dr.Balasundaram Road, Coimbatore - 18.
3. The Assistant License Issuing Authority,
Regional Transport Office,
Rasipuram, Namakkal District
4. The Regional Transport Officer
O/o.The Regional Transport Office
Thirupur North, Thirupur District.
5. The Inspector of Police, Oothukuli Police Station,
Thirupur, Thirupur District.
6. The General Manager
Tamil Nadu State Transport Corporation
Salem District.

+1 cc to M.V.Murulidaran, Advocate, sr.61040
+1 cc to Mr.P.Kannankumar, Advocate, sr.61697

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