

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.38782 of 2015

M.S.Sivakumar

(Petitioner)

Vs.

1.The Regional Transport Officer
Dharapuram.

2. The Inspector of Police
Udumalpet.

(Respondents)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents herein to return the petitioner's Driving Licence bearing DL.No.TN.33Y 20060001408 which is valid upto 14.04.2017 forthwith.

For Petitioner : Mr.A.Ganesan

For Respondents: Mr.T.N.Rajagopalan, SGP

O R D E R

Mr.T.N.Rajagopalan, learned Special Government Pleader takes notice for the respondents. By consent, the writ petition is taken up for final disposal.

2.The petitioner has filed this writ petition seeking a direction to the respondents to return his Driving Licence bearing DL.No.TN.33Y 20060001408 to him forthwith.

3.According to the petitioner, he is working as a driver in Tamil Nadu State Transport Corporation, Tiruppur Division. On 16.11.2015, while he was driving the vehicle bearing Registration No.TN33 N 2112, an accident occurred, due to which, one person died. Pursuant to the same, the second respondent registered a case in FIR No.819 of 2015 on 16.11.2015 for the offences under sections 279 and 304 A IPC against the

petitioner. In the course of investigation, the second respondent also seized the original driving licence of the petitioner, which was subsequently sent to the first respondent for cancellation. The petitioner made a representation dated 28.11.2015 to the first respondent for return of his driving licence and the same is yet to be considered so far. Hence, the petitioner is before this Court.

4.The learned counsel for the petitioner submitted that the petitioner is the sole bread winner of his family. Since the driving licence of the petitioner has been seized, he is unable to do his profession, due to which, he is suffering from hardship for his day today livelihood. The learned counsel for the petitioner further 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.The learned Special 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, this Court directs the first respondent to return the driving licence of the petitioner to the Investigating Officer/second respondent, who, in turn, shall 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 licence to the petitioner.

7.The writ petition is disposed of accordingly. No costs.

rk

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Regional Transport Officer,
Dharapuram.

2. The Inspector of Police,
Udumalpet.

+ 1 cc to Mr.A.Ganesan, Advocate Sr 66228.

+ 1 cc to The Govt. Pleader, Sr 66627 (15/6/16)

KR/22/12

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