

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :4.03.2015

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.No.3925 of 2015

R. Ravi

.... Petitioner

vs

The Regional Transport Officer,
Transport Department,
Chennai 600 078
Chennai (West)

.... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the impugned order vide No in Proceeding R.No.5549/M2/2015 dated 01.2015 and to quash the same as illegal and consequently directing the respondent to return the driving license of the petitioner and to follow the judgment given by the Division Bench of this Court reported in 2010 Writ Law Reporter 100.

For Petitioner :Mr.R.Y. George Williams
For respondent :Mr.V. Subbiah,
Spl.Govt. Pleader

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated -/01/2015 and to quash the same as illegal and consequently directing the respondent to return the driving license of the petitioner and to follow the judgment given by the Division Bench of this Court reported in 2010 Writ Law Reporter 100.

2. According to the petitioner, he is working as a Driver in the Metropolitan Transport Corporation and now working at K.K. Nagar Branch. On 22.12.2014, while the petitioner was on duty in Bus No.TN-01-N-4581, for a Trip from K.K. Nagar to Anna Square, when the bus was about to stop at Boag Road Bus Stand, Pondy Bazaar, T. Nagar, one of the passengers informed that one person, aged about 60 years, tried to alight the bus, before stopping the bus at the bus stand and fell down from the bus, resulting in serious injuries.

3. The petitioner also informed the Police and Ambulance and sent the injured to the Government Hospital and he took the bus to the Pondy Bazaar Police Station.

4. An First Information Report was registered as against the petitioner in Cr.No.634 of 2014 and the authorities, who investigated the accident, came to the conclusion that the accident had occurred only due to rash and negligent driving of the petitioner. The driving licence of the petitioner was seized by the police officials and later, it was handed over to the Regional Transport Office.

5. According to the petitioner, as a result of impounding of the driving licence, he is out of job, for no fault on his part. On 29.1.2015, the respondent issued a Show Cause Notice, as to why he should not be disqualified from driving the vehicle. Thereafter, by impugned order dated 01/2015, the respondent suspended the driving licence of the petitioner from 22.11.2014 to 21.6.2015. Aggrieved over the same, the petitioner has filed the above writ petition.

6. Mr.R.Y. George Williams, learned counsel appearing for the petitioner submitted that, in similar circumstances, the Division Bench of this Court, in the judgment reported in 2010 Writ L.R 100 (P. Sethuram vs The Licensing Authority, The Regional Transport Officer, Dingidul (Madurai Bench) held that the respondent has, in the impugned order, pre-concluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor Vehicle is used in the commission of a cognizable offence and without making a specific averment regarding the same, the order, suspending the driving licence, cannot be taken to be passed after due application of mind.

7. In the case on hand, the accident had occurred on 22.12.2014 and the petitioner's licence was impounded by the respondent even prior to the completion of the criminal case or Motor accident Claim Case. Therefore, the ratio laid down by the Division Bench of this Court, cited supra, squarely applies to the facts and circumstances of the present case.

8. Mr.V. Subbiah, learned Special Government Pleader, appearing for the respondent submitted that the respondent had rightly impounded the driving licence of the petitioner for the reason that the accident had occurred only due to rash and negligent driving of the petitioner.

9. However, the judgment relied upon by the learned counsel for the petitioner squarely applies to the facts and circumstances of the present case.

10. Following the ratio laid down by the Division Bench of this court reported in 2010 Writ L.R 100 (P. Sethuram vs The Licensing Authority, The Regional Transport Officer, Dingidul (Madurai Bench), the impugned order passed by the respondent is liable to be set aside and accordingly, the same is set aside. The respondent is directed to return the driving licence of the petitioner within a week from the date of receipt of a copy of this Order. However, it shall not preclude the respondent from initiating any action, if any of the contingencies specified in Motor Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government, in pursuance of the Provisions of the Act, are violated.

11. In the result, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sr

To

The Regional Transport Officer,
Transport Department,
Chennai 600 078
Chennai (West)

+ 1 cc to Government Pleader Sr.12156

W.P.No.3925 of 2015

CTK(CO)
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