

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5544 of 2015

C.Murugan

... Petitioner

vs.

1.The Inspector of Police,
Traffic Investigating Wing,
R-4 Pondy Bazaar Police Station,
Chennai - 600 017.

2.The Licensing Authority-cum-
Regional Transport Officer,
Chennai South West,
Virugambakkam,
Chennai - 600 092.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent herein to return the original Driving License (DL No.TN0919860000163) to the petitioner forthwith.

For Petitioner : Mr.K.Hariharan

For Respondents : Mrs.M.E.Raniselvam,
Additional Government Pleader

O R D E R

Writ petitioner has come forward seeking a direction to the second respondent herein to return his original Driving License (DL No.TN0919860000163) forthwith.

2. It is the case of the petitioner that he is an employee/Driver working under Metropolitan Transport Corporation, Chennai; that while driving the bus, there was an accident on 24.11.2014, resulting in registration of a case in Crime No.596/TN3/2014. The first respondent, while registering the FIR collected the original driving licence of the petitioner and sent the same to the second respondent recommending cancellation, which is contrary to the provisions of Section 19 (1) of the Motor Vehicles Act, which is extracted hereunder:

"Power of licensing authority to disqualify

from holding a Driving Licence or revoke such licence.

(I) If a licensing authority is satisfied, after giving the holder of a Driving Licence an opportunity of being heard, that he

(a) is a habitual criminal or habitual drunkard; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substance Act, 1985 (61 of 1985); or

(c) is using or has used a motor vehicle in the commission of cognizable offences; or

(d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public; or

(e) has obtained any driving licence or a licence to drive a particular class or description of motor vehicle by fraud or misrepresentation; or

(f) has committed any such act which is likely to cause nuisance or danger to public, as may be prescribed by the central government, having regard to the objects of this Act, or

(g) has failed to submit to, or has not passed, the tests referred to in the Proviso to sub section (3) of Section 22; or

(h) being a person under the age of eighteen years who has been granted a learner's licence or a driving licence with the consent in writing of the person having the care of the holder of the licence and has ceased to be in such care, it may, for reason to be recorded in writing, make an order;

(i) disqualifying that persons for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence; or

(j) revoke any such licence."

3. Heard learned counsel for petitioner and learned Additional Government Pleader.

4. The issue raised by the petitioner is no longer res integra in view of the judgment of the Division Bench of this Court in P.SETHURAMAN v. THE LICENSING AUTHORITY, RTO, DINDUGAL [2010 Writ L.R. 100]. The Division Bench has made it very clear that the pendency of a criminal case would not give jurisdiction to the authority to cancel the licence. The authority has to wait for the outcome of the criminal case. The Division Bench further held that only in case the respondent is in a position

to prove the commission of cognizable offence which would attract Section 19(1) of Motor Vehicles Act, 1989, the licence could be suspended.

5. The licence of the petitioner was seized solely on the ground that he was involved in a criminal case under Section 338 IPC. The criminal case is still pending. The factum of involvement of the petitioner in an offence under Section 338 IPC would not give jurisdiction to the second respondent to seize the licence.

6. It is admitted that the driving licence is still with the second respondent. Under such circumstances, the second respondent is directed to return the driving licence to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gm

To

1.The Inspector of Police,
Traffic Investigating Wing,
R-4 Pondy Bazaar Police Station,
Chennai - 600 017.

2.The Licensing Authority-cum-
Regional Transport Officer,
Chennai South West,
Virugambakkam,
Chennai - 600 092.

1 cc to Government pleader, sr. 11865

1 cc to M/s. K. Hariharan, Advocate, sr. 11706

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