

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE Hon'ble Thiru JUSTICE M. DURAISWAMY

W.P.No.7850 of 2015

A. Balakrishnan

... Petitioner

vs

1. The Joint Commissioner,
The Regional Transport Office (PO),
Mettupalayam, Coimbatore District

2. The Licensing Authority,
Mettupalayam, Coimbatore District

... Respondents

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 second respondent relating to the impugned order vide No in SE.MU.Aanai Yeen 544/Aa3/2015 dated . 02.2015 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

Mr.V. Subbiah, learned Special Government Pleader takes notice for the respondents.

2. Heard Mr.R.Y. George Williams, learned counsel for the petitioner and Mr.V. Subbiah, learned Special Government Pleader for the respondents and by consent of both sides, the main writ petition is taken up for final hearing at the state of admission itself.

3. The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent relating to the impugned order vide No in SE.MU.Aanai Yeen 544/Aa3/2015 dated .02.2015 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.

4. It is the case of the petitioner that he is working as a Driver under the Tamil Nadu State Transport Corproation and now working at Pollachi Branch III. On 11.1.2015, while the petitioner was on duty, a bus, bearing Registration No.TN-38N 1676, met with an accident. According to the petitioner, the accident had occurred only due to Air leak problem and also due to incorrect fitting position of hand brake.

5. An First Information Report was registered against the petitioner in Cr.No.15 of 2015 for the offence punishable under secs.279, 304 (A) IPC . The police officials also seized the driving licence of the petitioner and handed over the same to the Regional Transport Officer.

6. In January 2015, the respondent issued a Show Cause Notice to the petitioner stating that why the driving licence should not be suspended, for which, the petitioner gave a reply, however, the respondent suspended the driving licence from 4.2.2015 to 3.8.2015. Aggrieved over the order passed by the second respondent, the petitioner has filed the above writ petition.

7. 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.

8. In the case on hand, the accident had occurred on 11.1.2015 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.

9. 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.

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

11. 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

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Sub Assistant Registrar

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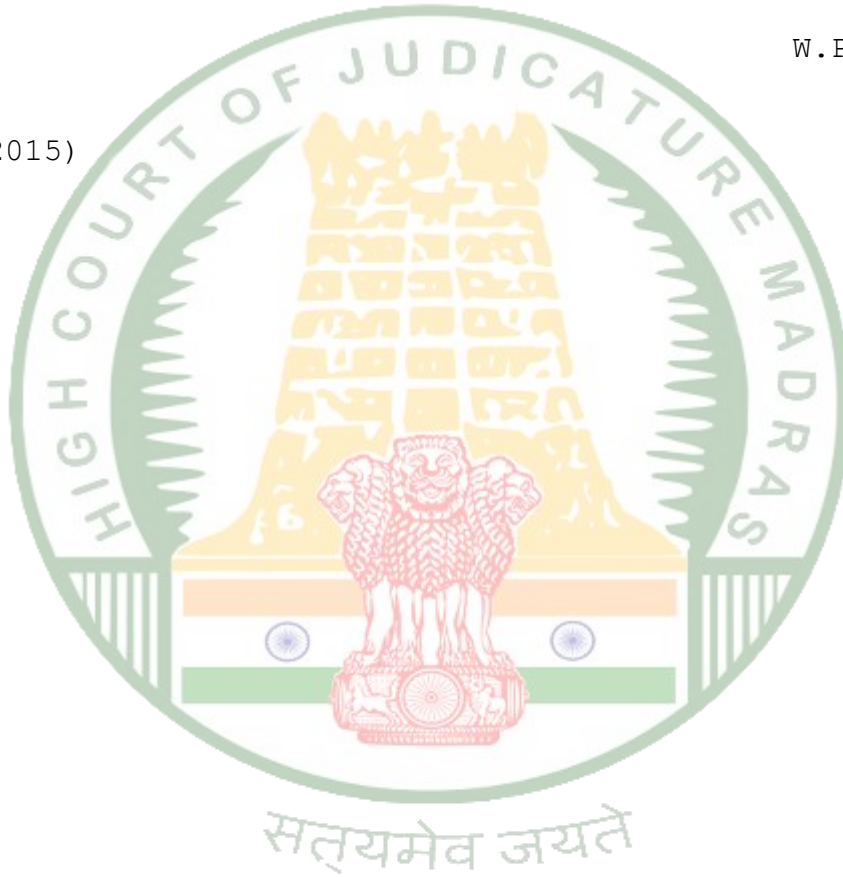
To

1. The Joint Commissioner,
The Regional Transport Office (PO),
Mettupalayam, Coimbatore District
2. The Licensing Authority,
Mettupalayam, Coimbatore District.

+lcc to Mr.R.Y.George Williams, Advocate, S.R.No.18304
+lcc to the Government Pleader, S.R.No.18378

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TEJ(CO)
CA(01/04/2015)



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