

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

Writ Petition No.8150 of 2015 and

M.P.No. 1 of 2015

C.Govindaraj

.. Petitioner

v.

1.The Regional Transport Officer,
Hosur Regional Transport Office,
Hosur, Krishnagiri District.

2.The Inspector of Police,
Soolagiri Police Station,
Krishnagiri District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to return the driving license of the petitioner which is under the custody of the first respondent seized by the second respondent on 25.02.2015 forthwith based on the representation of the petitioner dated 14.03.2015.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mrs.M.E.Raniselvam

Additional Government Pleader

ORDER

Mrs.M.E.Raniselvam, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, the writ petition itself is taken up for hearing and disposed of by this order.

2.The petitioner has filed the above writ petition for a mandamus to direct the respondents to return the driving license of the petitioner which is under the custody of the first respondent seized by the second respondent on 25.02.2015 forthwith based on the representation of the petitioner dated 14.03.2015.

3.It is the case of the petitioner that he is working as a Driver in the Tamil Nadu State Transport Corporation, Krishnagiri Division. On 25.02.2015, while he was driving the Bus bearing registration No.TN 29 N 2496 from Krishnagiri to Bangalore, the Bus met with an accident. According to the petitioner, the accident had occurred due to the rash and negligent driving of the rider of the two wheeler. The second respondent police registered an F.I.R., as against the petitioner under Sections 279 and 304(A) I.P.C., in Crime

No.123/2015. Pursuant to the F.I.R., the petitioner was arrested, subsequently, enlarged on bail. The second respondent had also seized the petitioner's driving licence. The petitioner further submitted that he approached the first respondent on numerous occasions requesting him to return the driving licence enabling him to continue his employment. Thereafter, the petitioner gave a representation to the first respondent on 14.03.2015. However, the first respondent has not returned the driving licence to the petitioner.

4.The issue involved in the present writ petition is squarely covered by the judgement of a Division Bench of this Court reported in 2010 Writ L.R 100 (P.Sethuram v. The Licensing Authority, the Regional Transport Officer, Dindigul) wherein, the Division Bench has held that when there is no allegation either in the notice or in the order impugned in the writ petition that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act, it has been 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. Under these circumstances, the Division Bench directed the respondent to return the driving licence of the appellant therein.

5.Mrs.M.E.Raniselvam, learned Additional Government Pleader appearing for the respondents submitted that the ratio laid down in the said judgement squarely applies to the facts and circumstances of the present case.

6.Having regard to the submissions made by the learned counsel on either side, I am of the considered view that the ratio laid down in the judgement reported in 2010 Writ L.R 100 (cited supra) squarely applies to the present case and that the respondent should be directed to return the driving licence to the petitioner. Accordingly, the first respondent is directed to return the driving licence to the petitioner within a period of one week from the date of receipt of a copy of this order. However, it shall not preclude the respondents from initiating any action, if any, of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated.

7.With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

<https://hcservices.ecourts.gov.in/hcservices/>

jbm

To

1.The Regional Transport Officer,
Hosur Regional Transport Office,
Hosur, Krishnagiri District.

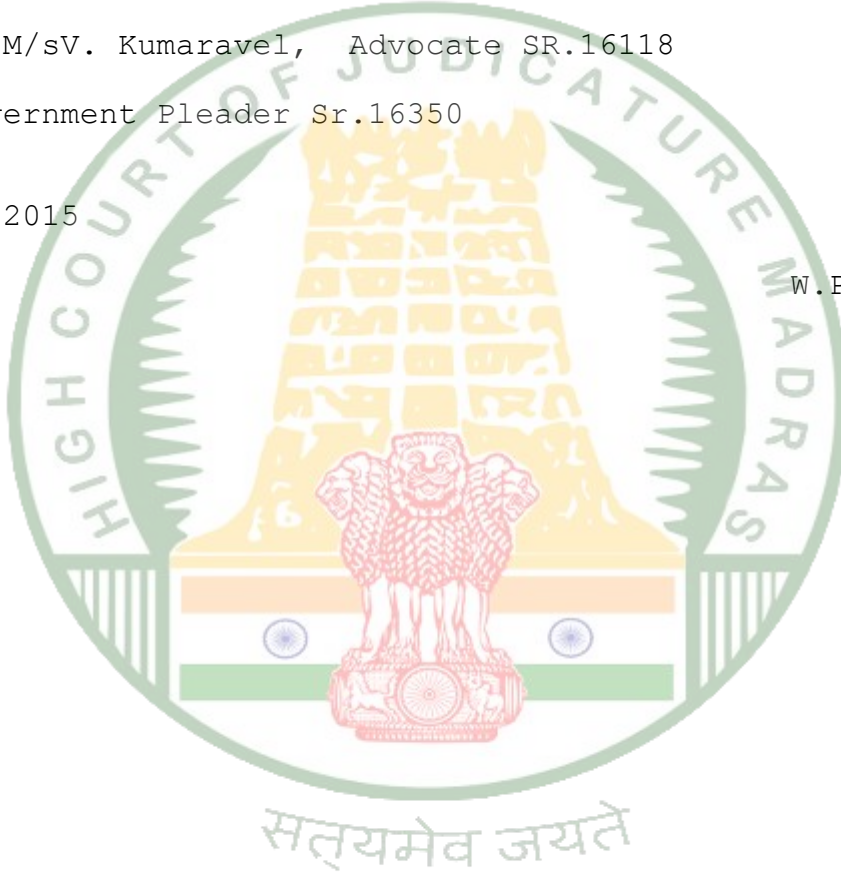
2.The Inspector of Police,
Soolagiri Police Station,
Krishnagiri District.

+ 2 cc to M/sV. Kumaravel, Advocate SR.16118

+ 1 cc Government Pleader Sr.16350

ALA(CO)
EU 07.04.2015

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