



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.(MD) No.20218 of 2014

T. Mahalingam

: Petitioner

Vs.

1. The Regional Transport Officer,
The Regional Transport Office,
Sankarankoil, Thirunelveli District

2. The Inspector of Police,
Dhevarkulam Police Station,
Thirunelveli,
Thirunelveli District

: Respondents

Prayer: This Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of impugned order in Se.Mu.Order No.21145/B3/2014 dated 12.2014 signed on 03.12.2014 issued by the first respondent and quash the same and consequently direct the first respondent to return the driving license of the petitioner to him.

For Petitioner : Mr. L. Madhusudhanan

For Respondents : Mr.R.Anandharaj
Government Advocate

O R D E R

The writ petitioner is aggrieved against the order dated 03.12.2014 issued by the first respondent, through which, his driving licence was impounded for a period of six months on the reason that he was involved in a road accident.

2. The short facts, that arise for consideration in this case, are as follows:-

The petitioner joined the Tamil Nadu State Transport Corporation as a Driver in the year 2007. While he was working in Sankarankoil Branch as Driver, on 10.11.2014, he was driving a bus bearing Registration No.TN-72-N-1661 from Thirunelveli to Sankarankoil and the said vehicle met with an accident by dashing with a motor bike. The second respondent registered a criminal case against the petitioner in Crime No.208 of 2014 under Sections 279, 333, 338 and 304(A) of Indian Penal Code. Thereafter, the second respondent seized the driving licence of the petitioner. Consequently, the first respondent issued a show cause notice on



13.11.2014. The petitioner gave a reply on 02.12.2014, denying the allegations. However, the impugned order of impounding the licence came to be passed. The present Writ Petition is filed mainly on the ground that the impugned order cannot be passed merely by relying on the First Information Report lodged against the petitioner. It is also contended that the impounding of the licence was done before issuing the show cause notice and the impugned order also pre-concluded the issue as if the petitioner is guilty of rash and negligent driving even before the Criminal Court decides the said issue.

3. The learned counsel appearing for the petitioner, in support of the above contentions, relied on a decision of the Division Bench of this Court made in **2010 Writ.L.R.100 (P. Sethuraman Vs. The Licensing Authority, The Regional Transport Officer, Dindigul)**.

4. Mr.R.Anandaraj, learned Government Advocate appearing for the respondents fairly submitted that the issue involved in this case is squarely covered by the decision of the Division Bench of this Court reported in **2010 Writ L.R.100 (P. Sethuraman Vs. The Licensing Authority, The Regional Transport Officer, Dindigul)** cited *supra*.

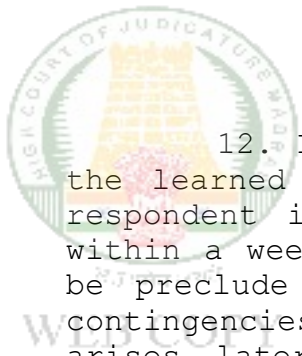
5. In this case, the vehicle, which the petitioner was driving, got involved in an accident on 10.11.2014 and a criminal case was registered against the petitioner on 11.11.2014 and the licence of the petitioner was also impounded by the second respondent on the very same day. Thereafter, the first respondent issued the show cause notice on 13.11.2014. Therefore, the impounding of the licence has, admittedly, preceded the issue of show cause notice. Again, a perusal of the impugned order would show that the first respondent has pre-concluded the issue and has given a finding as though the petitioner is guilty of rash and negligent driving, when admittedly, the said issue has not been decided by the competent Criminal Court.

6. In an identical circumstances, the Division Bench has observed in the above decision at paragraph Nos.9,11 and 12 as follows:-

"9. But in the case on hand, the licence of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19 (1) of the Act, after getting a report from the police. Therefore, the impounding of the licence has actually preceded the issue of show cause notice.

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11. The respondent has, in the impugned order, preconcluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accidents 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. 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.



12. In view of the above, the Writ Appeal is allowed, the order of the learned Judge is set aside and the Writ Petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not be preclude the respondent 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. No costs. Consequently, connected Miscellaneous Petition is closed."

7. Since the above decision made by the Division Bench squarely covers the issue in favour of the petitioner, this Writ Petition is allowed and the impugned order dated 03.12.2014 is set aside and the first respondent is directed to return the driving licence to the petitioner, within a period of seven days from the date of receipt of a copy of this order. It is made clear that the order passed in this Writ Petition will not preclude the respondents from initiating any action and to proceed against the petitioner in accordance with law. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar(C.S.)

To

1. The Regional Transport Officer,
The Regional Transport Office,
Sankarankoil, Thirunelveli District
2. The Inspector of Police,
Dhevarkulam Police Station,
Thirunelveli,
Thirunelveli District

+1cc to Mr. L.Madhusudnan, Advocate in SR.No. 3246

+1cc to Special Government Pleader in SR.No. 3504.

TS/29.01.2015/2P-5C

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