

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17256 of 2016

&

W.M.P.No.14736 of 2016

N.Rajan

... Petitioner

vs.

1. The Transport Commissioner
Chepauk
Chennai - 600 005
2. The Joint Transport Commissioner
North Zone
Chepauk
Chennai - 600 005
- 3.The License Issuing Authority
Regional Transport Office
Marthandam
Kanyakumari District
- 4.The Regional Transport Officer
Thiruvallur Regional Transport Office
Thiruvallur
5. The Inspector of Police
B1, Thiruvallur Town Police Station
Thiruvallur District
6. The General Manager
Metropolitan Transport Corporation
Pallavan House
Chennai - 600 002

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relevant to Order in SE.MU.No.E5/2177/2016 dated 01.04.2016 passed by the 4th respondent and quash the same as illegal, improper and against

the natural justice and thereby allow the Petitioner, to join duty before the 6th Respondent.

For Petitioner : Mr.A.Rajesh Kanna
For Respondents : Mr.A.Zakkir Hussain
Govt. Advocate for R1 to R5
Mr.P.Kannan Kumar for R6

O R D E R

Heard Mr.A.Rajesh Kanna, learned counsel for the petitioner and Mr.A.Zakkir Hussain, learned Government Advocate for Respondents 1 to 5 and Mr.P.Kannan Kumar, learned counsel for the sixth respondent.

2. In this writ petition, the petitioner has challenged the order passed by the fourth respondent dated 01.04.2016 suspending the petitioner's Driving Licence for a period of six months i.e., from 20.01.2016 to 19.07.2016. The petitioner is employed as a driver in the Metropolitan Transport Corporation, Chennai. On account of an accident which occurred on 20.01.2016, the petitioner's licence was seized on the same day. The petitioner's grievance was that no show-cause notice was issued prior to the seizure. Therefore, the petitioner filed a writ petition before this Court in W.P.No.21091 of 2016 to direct the respondents to return the petitioner's Driving Licence to enable him to join duty before the fifth respondent. The writ petition was disposed of by order dated 31.03.2016 following the decision of the Hon'ble Division Bench of this Court in P.Sethuram Vs. The Licensing Authority, reported in 2010 Writ L.R.100. In terms of the direction issued by the Court, the petitioner's Driving Licence has been returned.

3. However, on account of the order of suspension being in force till 19.07.2016, the petitioner is unable to join duty in the respondent Corporation and he has been placed under suspension from service. The Hon'ble Division Bench in the case of P.Sethuram held that the order impugned therein pre-concluded the issue that the appellant therein was guilty of rash and negligent driving even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Therefore, the order of suspension was interfered. In the instant case also, though the FIR has been registered in Crime No.27 of 2016, till date the criminal Court has not held the petitioner to be guilty of rash and negligent driving. Therefore, the respondent could not have suspended the petitioner's licence, that too, for a period of six months. The other issue which has to be considered

is that the petitioner's licence was seized on 20.01.2016 and the notice was issued after seizure on 09.02.2016 and order of suspension was passed on 01.04.2016.

4. In the light of the above facts and taking into consideration the order passed by the Hon'ble Division Bench in the case of P.Sethuram, the writ petition is allowed and the impugned order of suspension dated 01.04.2016 is quashed. The petitioner is directed to produce his original licence before the fourth respondent, who shall make necessary entries. If the respondent has made an endorsement of suspension in the licence, the respondent is directed to cancel the same in the light of the fact that the order of suspension has been set aside by this Court. Consequently, the connected miscellaneous petition is closed. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

gpa

To

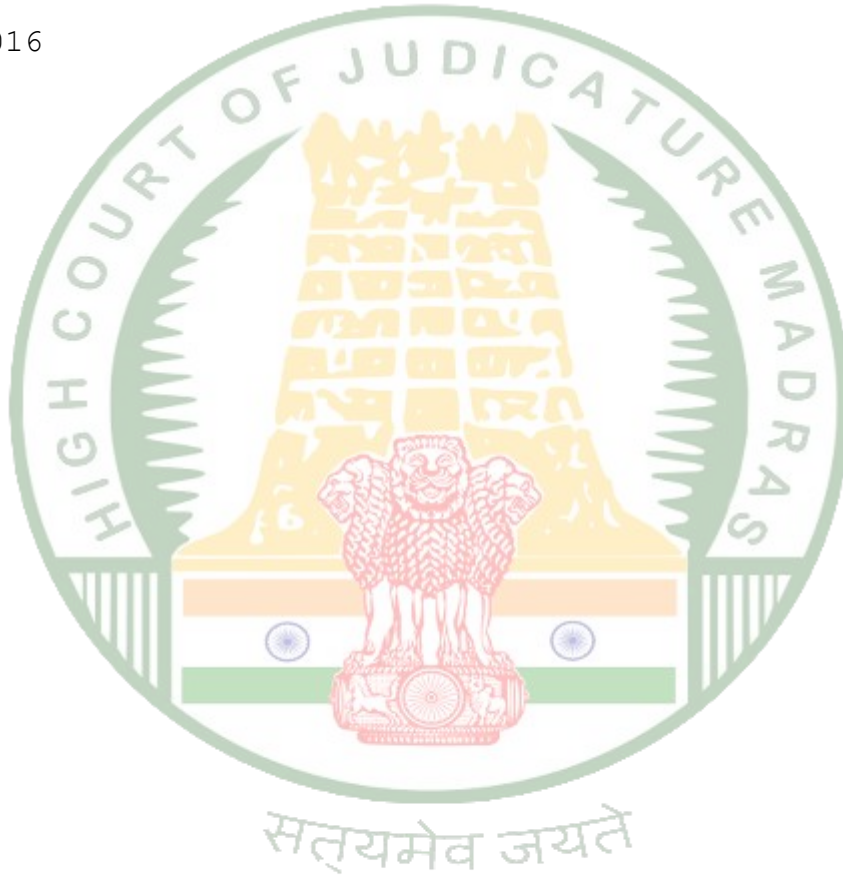
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+1 cc to Mr.A.Rajesh Kanna Advocate sr.30335

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