

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.18994 of 2016
&
W.M.P.No.16555 of 2016

M.Somasundaram

... Petitioner

vs.

1. The Licensing Authority - cum-
The Regional Transport Officer
Sankari, Salem District
2. The Inspector of Police
Karumalai Kadal Police Station
Karumalai Kadal, Salem District
3. The Deputy Transport Commissioner
Salem

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the impugned order of the third respondent made in 08.07.2015/No.476/A3/2015 dated 08.07.2015 confirming the order of the 1st respondent made in Rc.No.6105/B3/2015 dated 21.04.2015 and quash the same and consequently direct the 1st respondent herein to return the petitioner's Driving Licence bearing D.L.No.TN27Y19990000701 (which is valid upto 04.11.2019) after removing the endorsement "cancelled" forthwith.

For Petitioner : Mr.A.Ganesan

For Respondents: Mr. R. Lakshmi Narasimhan,
Additional Government Pleader

ORDER

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the 3rd respondent in connection with the impugned order dated 08.07.2015 confirming the order of the 1st respondent dated 21.04.2015 suspending the petitioner's Driving License and to quash the same and to consequently direct the 1st respondent herein to return the driving license to the petitioner after removing the endorsement "cancelled" forthwith.

2.It is the case of the petitioner that he is a Driver in Swarnambigai Transport. The 2nd respondent police had registered a case under Sections 279 and 336 of the Indian Penal Code in Crime No.84/2015 dated 05.02.2015 against the petitioner on the allegation that he drove the vehicle bearing Registration No.TN30-BB-3523 in a rash and negligent manner. The 2nd respondent had handed over the Driving License of the petitioner to the 1st respondent and the 1st respondent is retaining the petitioner's Driving License. Hence, the petitioner has filed this Writ Petition to quash the impugned order and to direct the 1st respondent to return the original Driving License for the reason that the criminal case has not yet been decided.

3.The learned counsel appearing for the petitioner submitted that the issue involved in the present Writ Petition is covered by the decision of this Court reported in 2015 (2) CTC 626 [R.Ravi Vs. The Regional Transport Officer, Transport Department, Chennai - 600 078 [Chennai (West)]] wherein it has been held as follows:

"Following the ratio laid down by the Division Bench of this Court reported in P.Sethuram V. The Licensing Authority, The Regional Transport Officer, Dindigul, 2009 (2) TN MAC 252 (DB) : 2010 WLR 100, 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."

4.Mr.R.Lakshmi Narayanan, learned Additional Government Pleader appearing for the respondents also submitted that the issue is covered by the judgment of this Court reported in 2015 (2) CTC 626 [R.Ravi Vs. The Regional Transport Officer, Transport Department, Chennai - 600 078 [Chennai (West)]].

5.Having regard to the submissions made by the learned counsel on either side, following the ratio laid down in the said judgment, the impugned order passed by the 3rd respondent dated 08.07.2015 is set aside. The 1st respondent is directed to return the Driving License of the petitioner within a week's time 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 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.

6.With this observation, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Licensing Authority - cum-
The Regional Transport Officer
Sankari, Salem District
2. The Inspector of Police
Karumalai Kadal Police Station
Karumalai Kadal, Salem District
3. The Deputy Transport Commissioner
Salem

+1cc to Mr.A. Ganesan, Advocate, S.R.No.

+1cc to the Government Pleader, S.R.No.37474

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SKV(CO)
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