

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP.No.37441 of 2015

MP.No.1 of 2015

K.Sathiyaraj

..Petitioner

Vs

1.The Transport Commissioner, Chepauk, Chennai-5

2.The Assistant Licensing Authority,
Regional Transport Office,Villupuram

3.The Deputy Commissioner of Police, Traffic,
Chennai South

4.The Inspector of Police, Traffic Investigation
J3 Guindy Police Station, Chennai-32

5.The Managing Director, Metropolitan Transport
Corporation, Chennai ..Respondents

Prayer:- This Writ Petition is filed to issue a Writ of Mandamus to direct the Respondents 2 to 4 to return the original driving licence bearing No.TN 32 2005 0004460, dated 3.6.2015 issued by the 2nd Respondent to the Petitioner and consequently to direct the 5th Respondent to employ the Petitioner in service, pending the outcome of the criminal case.

For Petitioner : Mr.V.J.Arulraj
For Respondents : Mr.M.S.Ramesh, AGP

ORDER

After hearing the learned counsel on either side, with their consent, the main Writ Petition itself is taken up for final disposal, at the stage of admission. The learned Additional Government Pleader takes notice for the Respondents.

2. In this Writ Petition, the Petitioner seeks for a direction to the Respondents 2 to 4 to return the original driving licence bearing No.TN-32-2005-0004460, dated 3.6.2015 and to direct the 5th Respondent to employ the Petitioner in service, pending the outcome of the criminal case.

3. The facts leading to filing of this Writ Petition are that the Petitioner is working as a Driver in the 5th Respondent Transport Corporation, having Driving License No. TN-32-2005-0004460, dated 3.6.2015, which is valid upto 5.6.2029, for operating Motor Cycles, LMV and HTV Vehicles. Based on the complaint of a third party, alleging that on 01.09.2015, the Petitioner caused death of a person, while he was driving the MTC Bus bearing No.TN-01-AN-0562, a criminal case was registered in Cr.No.612/SB/15, dated 01.09.2015, for the offences under Sections 279, 304A of IPC and 134(a) and (b) of the Motor Vehicles Act, by the 4th Respondent Police, against the Petitioner. During the course of the investigation, the original licence of the Petitioner was seized and forwarded to the licensing authority for cancellation of the same and thereafter, he was denied of the employment opportunities by the 5th Respondent. Hence, this Writ Petition has been filed.

4. In similar circumstances, this Court, by order dated 13.10.2014 made in WP.No.27103 of 2014, has passed the following order:-

"6. The issue involved in this Writ Petition is covered by the decision of this Court in a similar writ petition in WP(MD) No.16806 of 2013, dated 22.10.2013, wherein, this Court has held as follows:-

"7. In view of the said conclusion, I hold that the action of the Respondent in retaining the license is illegal. At the same time, in the present case, license was seized by the police and it is for the licensing authority to return the license to the police investigating the criminal case forthwith. On getting the driving license of the Petitioner, the investigating officer shall issue acknowledgement, as provided in sub-section 3 of Section 206 of the Motor Vehicles Act and then produce the license before the jurisdictional Magistrate. The jurisdictional Magistrate shall thereafter, return the license to the Petitioner, as provided in Section 206(1) of the Motor Vehicles Act. On such return of the license to the Petitioner, the Petitioner shall execute a bond to the satisfaction of the jurisdictional Magistrate undertaking to produce the license, as and when required by the Court."

7. Therefore, this Writ Petition is allowed. The 1st Respondent is directed to return the driving license to the Investigation Officer/2nd Respondent in Crime No.116 of 2014 on the file of the 2nd Respondent, who shall, in turn issue an acknowledgement to the Petitioner and then produce

the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the MV Act and return the license to the Petitioner."

5. In yet another decision reported in 2010-WLR-100 (P.Sethuram Vs. The Licensing Authority, Dindigul and others), in similar circumstances, the Division Bench of Madurai Bench of this Court, directed the Respondent therein to return the driving licence to the appellant therein. In yet another case rendered in the case of S.Duraivelu Vs. The Regional Transport Officer, West Tambaram, Chennai and Others (2013-WLR-843), this Court has, following the said decision of the Division Bench, directed the Respondents 1 and 2 therein to release the license of the Petitioner therein, after removing the endorsement "suspended" and subsequently also, this court passed similar orders in WP.No.35529 of 2015, by order dated 4.11.2015.

6. In view of the above decisions, it is made clear that the pendency of a criminal case would not give jurisdiction to the licensing authority to cancel the licence and the authority has to wait for the outcome of such a criminal case, as has been categorically held in 2010-WLR-100 cited supra.

7. In the light of the above said decisions and the orders made in similar circumstances, the Licensing Authority concerned is directed to return the driving licence of the Petitioner to the concerned Investigation Officer in respect of the First Information Report No.612/SB/15, dated 1.9.2015, who in turn, shall issue proper acknowledgement and then, produce the same before the jurisdictional Magistrate, who in turn, after exercising his power under Section 206(1) of the Motor Vehicles Act, shall return the same to the Petitioner.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MP is closed.

sd/-
Assistant Registrar (Cs-IV)

/TRUE COPY/

Sub-Assistant Registrar

Srcm

To:

1.The Transport Commissioner, Chepauk, Chennai-5

2.The Assistant Licensing Authority, Regional Transport
Office, Villupuram

3.The Deputy Commissioner of Police, Traffic,
Chennai South

4.The Inspector of Police, Traffic Investigation
J3 Guindy Police Station, Chennai-32

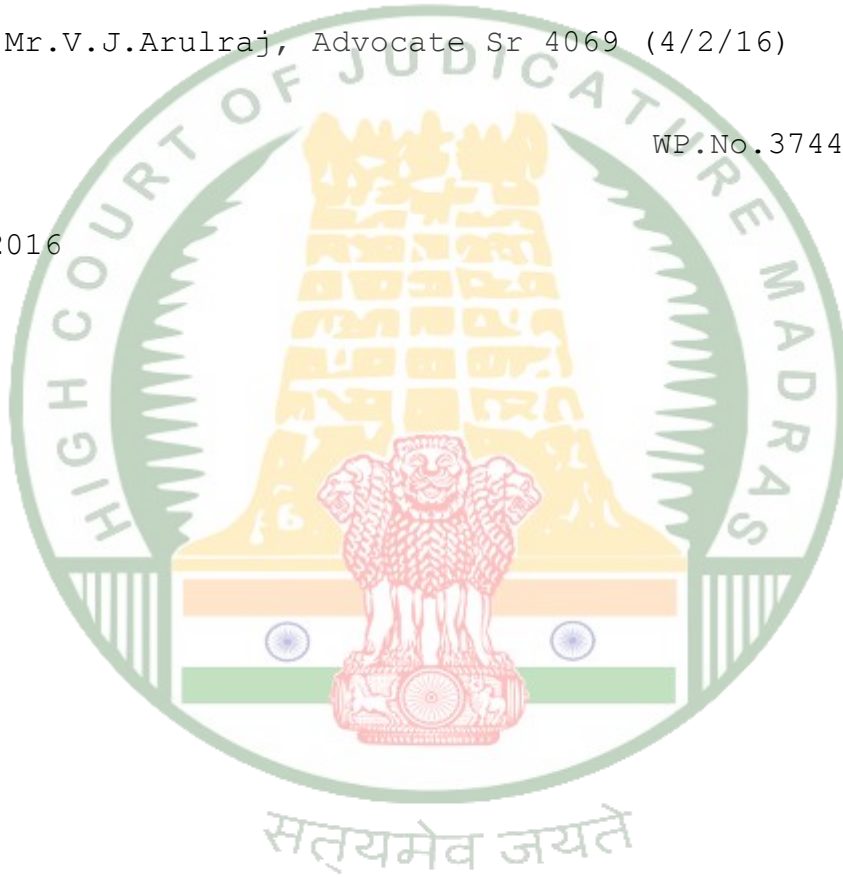
5.The Managing Director, Metropolitan Transport
Corporation, Chennai

+1 CC to Govt.Pleader. SR.NO. 3704

+ 1 cc to Mr.V.J.Arulraj, Advocate Sr 4069 (4/2/16)

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CO-MSM
JD 01/02/2016



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