

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.2415 of 2016

A.Ravichandran

... Petitioner

Vs

1.The Sub Inspector of Police,
Neravi Police Station,
Karaikal,
Pondicherry State.

2.The Licensing Authority-Cum-
Regional Transport Officer,
Mayiladuthurai,
Nagapattinam District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent made in proceedings in செ.மு.ஆ.எண் A5/28279/2015 dated 29.09.2015 suspending the driving licence of the petitioner for a period of six months upto 17.03.2016 and to quash the same and consequently, direct the second respondent to return the original driving licence (DL No.TN51 W 20030002474) to the petitioner forthwith.

For Petitioner : Mr.K.Hariharan

For Respondents : Mr.R.M.Muthukumar, GA

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate, who took notice for the respondents. With their consent, this writ petition is taken up for final disposal.

2.This writ petition has been filed challenging the order of the 2nd respondent dated 29.09.2015 suspending the driving licence of the petitioner for six months from 18.09.2015 to 17.03.2016 and to consequently direct the second respondent to return the original Driving Licence of the petitioner.

3.The case of the petitioner is that he is working as driver in Dhanalakshmi Bus Service, Karaikkal. While so, on 17.07.2015, when he was driving a bus bearing Regn.No.PY-02 D 9699, an accident occurred, due to which, a motor cycle rider died. Pursuant to the same, a criminal case was registered against the petitioner for the offence under section 304-A IPC and the driving license of the petitioner was impounded by the first respondent without following the procedures contemplated under Section 19(1)(c) of the Motor Vehicles Act and was handed over to the second respondent for cancellation. Thereafter, the second respondent suspended the driving license of the petitioner for a period of six months by an order dated 29.09.2015. Aggrieved against the same, the petitioner is before this court.

4.The learned counsel for the petitioner submitted that in identical circumstances, this Court in W.P.No.27103 of 2014 dated 13.10.2014 (Mani vs. Regional Transport Officer, Erode), 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 W.P.(MD) No.16806 of 2013 dated 22.10.2013, wherein this Court has held as follow:

"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, 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 acknowledgment, 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 acknowledgment 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.The learned counsel for the petitioner further submitted that in a similar case in P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul (2010 Writ L.R. 100), a Division Bench of Madurai Bench of this Court directed the respondent therein to return the driving licence to the appellant therein. The learned counsel also submitted that in yet another case in S.Duraivelu Vs. The Regional Transport Officer, West Tambaram, Chennai and Others (2013 Writ L.R. 843), this Court has followed the decision of the Division Bench and directed the respondents 1 and 2 therein to release the license of the petitioner therein, after removing the endorsement "suspended".

6.The learned Additional Government Pleader fairly submitted that the issue involved in the present writ petition is covered by the above said orders of this Court.

7.This Court has considered the submissions made by the learned counsel on either side. In P.Sethuram's case (cited supra), the Division Bench has categorically held that the pendency of a criminal case would not give jurisdiction to the authority to cancel the licence and the authority has to wait for the outcome of the criminal case.

8.In view of the above, the writ petition is disposed of with a direction to the second respondent to return the driving licence of the petitioner to the Investigation Officer/1st respondent, who in turn shall 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. No costs.

sd/-

Assistant Registrar(Cs-II)

/TRUE COPY/

Sub-Assistant Registrar

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To

1.The Sub Inspector of Police,
Neravi Police Station,
Karaikal,
Pondicherry State.

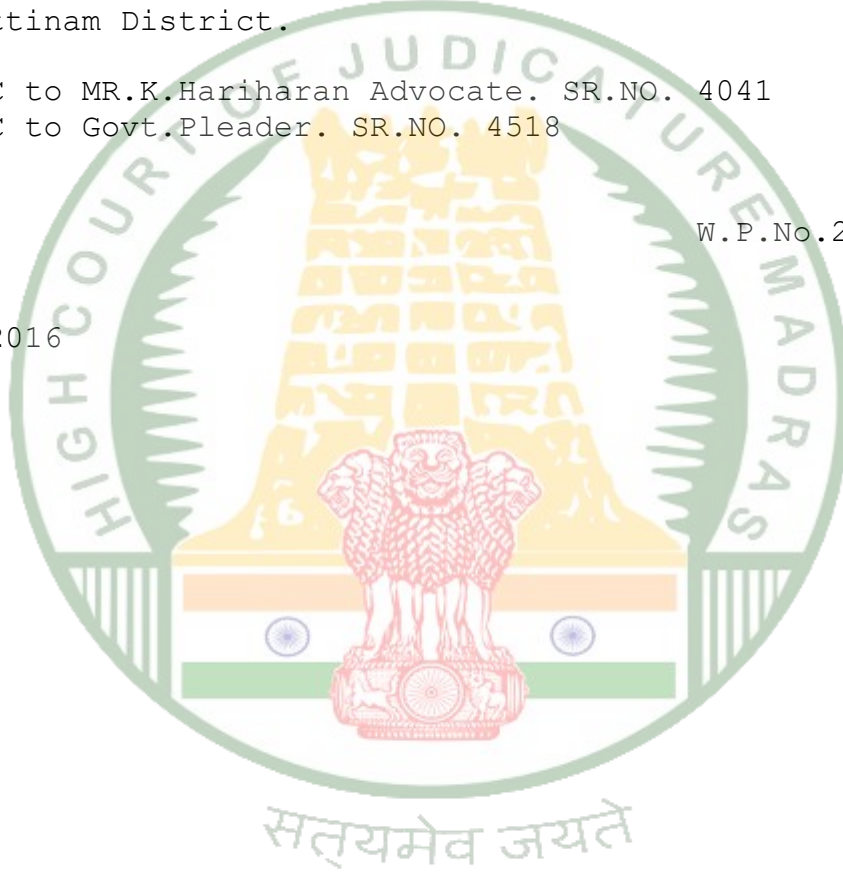
2.The Licensing Authority-Cum-
Regional Transport Officer,
Mayiladuthurai,
Nagapattinam District.

+1 CC to MR.K.Hariharan Advocate. SR.NO. 4041

+1 CC to Govt.Pleader. SR.NO. 4518

W.P.No.2415 of 2016

CO-VS
JD 02/02/2016



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