

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.12.2016
CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.44164 of 2016

A.Natarajan

... Petitioner

Vs.

- 1 Sub Inspector of Police
Kinathukadavu Police Station
Coimbatore
- 2 The Licensing Authority-cum-
Regional Transport Officer
Coimbatore West, Coimbatore. Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus Directing the 2nd respondent herein to return the original driving licence (DL.No.TN37 19930002286) to the petitioner forthwith.

For Petitioner : Mr.K.Hariharan
For Respondent : Mr.C.Jagadish
Special Government Pleader (Taxes)

O R D E R

1.Notice. Mr.C.Jagadish, learned Special Government Pleader (Taxes), accepts notice on behalf of the respondents. With the consent of learned counsel for parties, the writ petition is taken up for final disposal.

2.The petitioner, by virtue of the instant writ petition, seeks a direction for return of his original driving licence bearing DL.No.TN37 19930002286, which is, apparently, in the custody of the second respondent.

3.The facts which are required to be noticed for adjudication of the present writ petition are briefly set out hereafter:

3.1.The petitioner avers that he is employed as a driver with the Private Bus Transport called Jai Bus Service Coimbatore. It is further submitted by the petitioner that on

05.11.2016, he was driving a vehicle bearing Reg. No.TN-66/S-3812. It is also the case of the petitioner that he was driving from Pollachi to Coimbatore. Evidently on that date, the said vehicle, which admittedly, the petitioner was driving collided with a motorcycle.

3.2.The driver of the motorcycle died in the accident. Consequently, a criminal case under Sections 279 and 337 of the IPC was registered against the petitioner, on 05.11.2016.

3.3.The investigation launched against the petitioner form part of Crime No.389 of 2016.

4.The petitioner, further avers, that during the course of the investigation carried out by respondent no.1, his driving licence was taken into custody and handed over to the second respondent for appropriate action.

5.It is, in these circumstances, it appears, that the petitioner on 14.12.2016 represented to the second respondent, seeking return of his driving licence.

6.Based on the aforesaid facts, the petitioner's counsel argues that the second respondent has no authority to seize the petitioner's driving licence prior to a finding of conviction being returned, by the concerned criminal court. In support of his submissions, learned counsel for the petitioner relies upon the following judgments:

- i. P.Sethuram vs. The Licensing Authority, The Regional Transport Officer, Dindigul (Madurai Bench), 2010 Writ L.R. 100;
- ii.G.Jayaprakash vs. The Secretary to Government & Others, 2010 Writ L.R. 104;
- iii.R.Ravi vs. The Regional Transport Officer, Transport Department, Chennai, 2015 (2) CTC 626;
- iv.Order in W.P.No.23179 of 2016 (between M.Rathinakumar and The Inspector of Police, Traffic Investigating Wing and Another) decided on 12.07.2016.

7.On the other hand, learned counsel for the respondents says that the second respondent has the power to revoke the licence pursuant to powers conferred in that behalf under Section 19 of the Motor Vehicles Act, 1988 (in short, the 1988 Act).

8.I have heard the learned counsel for the parties. According to me, while there is no doubt that the second respondent would have the power to revoke the licence or even

disqualify the licence holder from holding a driving licence, that power can be exercised only if the provisions of the said section are scrupulously followed.

8.1.The second respondent, inter alia, is required to issue in the first instance a show cause notice. The show cause notice, in turn, should necessarily advert to the clause or clauses of sub-section (1) of Section 19 which are proposed to be triggered against the noticee. The noticee is required to be given an opportunity to present his case, and, only thereafter, can any punitive orders be passed against the noticee, i.e. holder of the driving licence.

8.2.The mere pendency of a criminal case, which may, in given circumstances, lead an acquittal, is not a good enough reason to seize the driving licence pending trial in the criminal case. Therefore, the power that the second respondent seeks to exercise under Section 19 of the Motor Vehicles Act, 1988, has to be exercised in consonance with the provisions of the said section and other appurtenant powers conferred under the 1988 Act and Rules framed thereunder.

9.Accordingly, the writ petition is disposed of with the direction to the second respondent to dispose of the representation of the petitioner dated 14.12.2016. While doing so, the second respondent will bear in mind the provisions of the 1988 Act and the judgments of this Court to which reference has been made hereinabove.

10.Needless to say, the second respondent will act with due expedition and, thus, conclude the aforesaid exercise not later than four (4) weeks from the date of receipt of a copy of the order. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

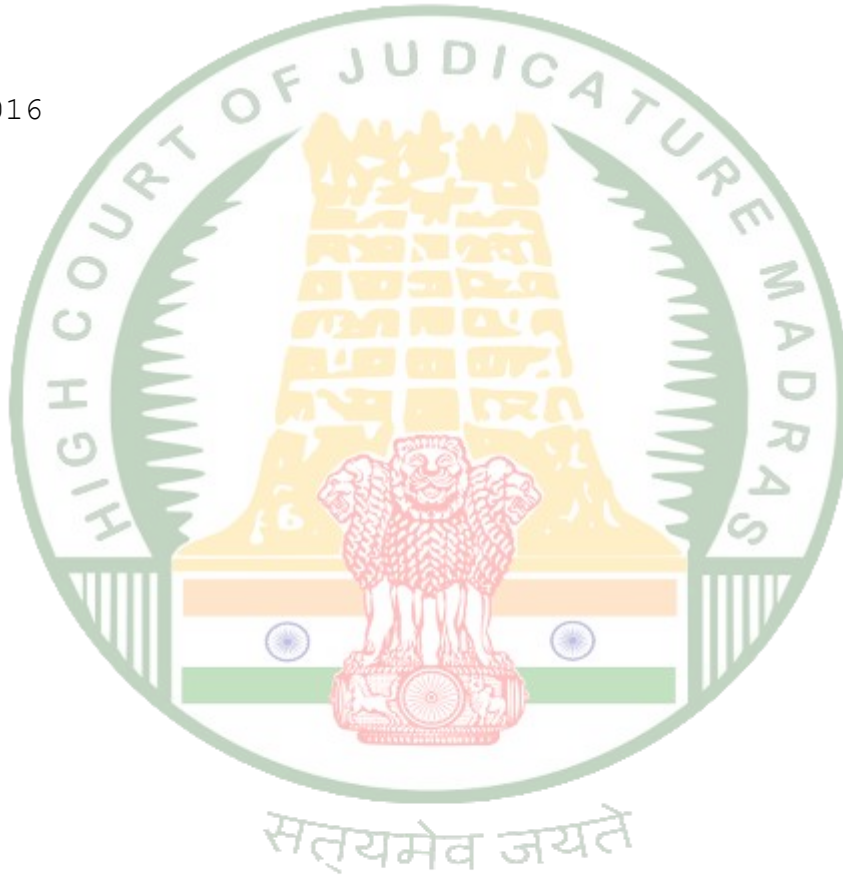
- 1 Sub Inspector of Police
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Coimbatore West, Coimbatore.

+1 cc to Mr.K.Hariharan Advocate sr 76070
+1 cc to Government Pleader sr 76471

W.P.No.44164 of 2016

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