

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P. No. 42166 of 2016

& W.M.P. No. 36073 of 2016

P. Rajesh ..Petitioner

Vs.

1. The Regional Transport Officer/
Licensing Authority,
Office of the Regional Transport
Officer,
Paranur, Chengalpattu,
Kancheepuram District.
2. The Inspector of Police,
TIW St. Thomas Mount Police Station,
Traffic Investigation Wing,
Chennai 600 016. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondents to return forthwith the petitioner's Original driving licence bearing No. TN 22 19950003836, without any endorsement and within a specified time.

For Petitioner :: Mr.V. Ajoy Khose
For Respondents :: Mr.Akhil Akbar Ali
Government Advocate

O R D E R

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 No. TN 22 19950003836, 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 Metropolitan Transport Corporation. It is further submitted by the petitioner that on 17.11.2016, he was driving a vehicle bearing Registration No. TN 01 AN 0167. It is also the case of the petitioner that he was driving on Route No. 18D/B. Evidently on that date, the said vehicle, which admittedly, the petitioner was driving collided with a motor cycle.

3.2 The driver of the motor cycle died in the accident. Consequently, a criminal case under Sections 279 and 304(A) of the I.P.C. was registered against the petitioner, on 17.11.2016.

3.3 The investigation launched against the petitioner forms part of Crime No. 576 of 2016.

4. The petitioner, further avers, that during the course of investigation carried out by the second respondent, his driving licence was taken into custody, by the second respondent.

5. It is, in these circumstances, it appears, that the petitioner on 17.11.2016 and 25.11.2016, 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 V. The Licensing Authority, The Regional Transport Officer, Dingidul (Madurai Bench), 2010 Writ L.R. 100;

(ii) G. Jayaprakash Vs. The Secretary to Government & Others, 2010 Writ L.R. 104;

(iii) R.Ravi V. 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 first 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 first 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.

9. The first 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 order be passed against the noticee, ie., holder of the driving licence.

10. The mere pendency of a criminal case, which may, in given circumstances, lead to an acquittal, is not a good enough reason to seize the driving licence pending trial in the criminal case. Therefore, the power that the first 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.

11. Accordingly, the writ petition is disposed of with the direction to the first respondent to dispose of the representations dated 17.11.2016 and 25.11.2016 by treating them as representations filed with him. To facilitate this exercise, the second respondent will forthwith forward the said representations to the first respondent. While doing so, the first respondent will bear in mind the provisions of the 1988 Act and the judgments of this Court to which reference has been made hereinabove.

12. Needless to say, the first 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.

13. Consequently, W.M.P. No. 36073 of 2016 stand closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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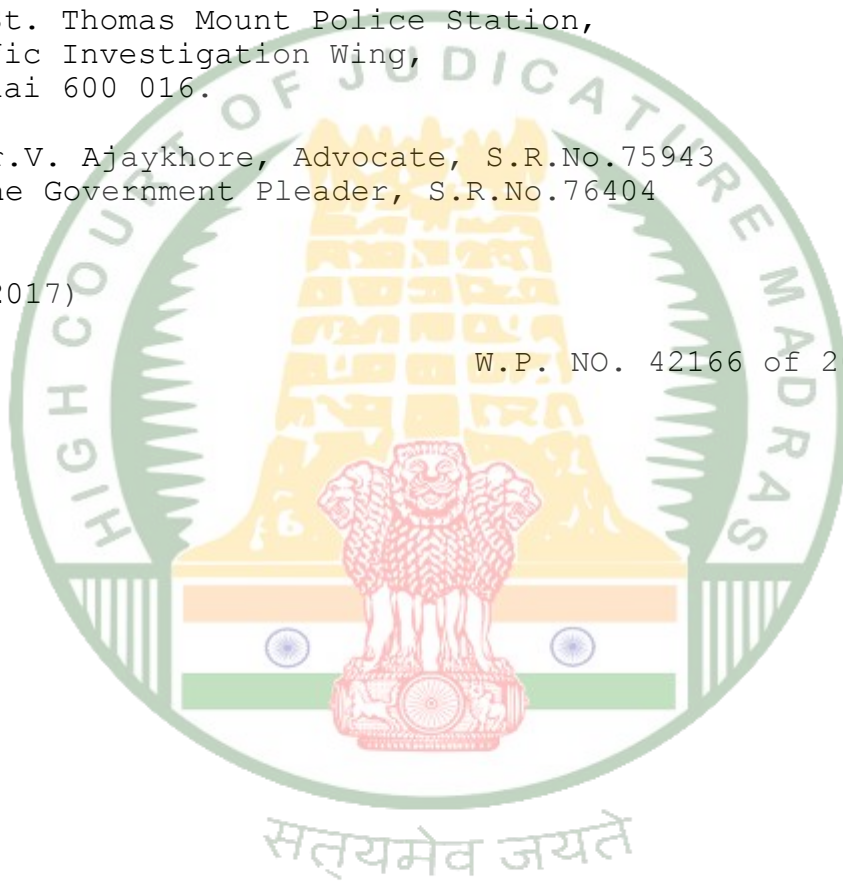
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+1cc to Mr.V. Ajaykhore, Advocate, S.R.No.75943
+1cc to the Government Pleader, S.R.No.76404

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