

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2016

CORAM :

The Hon'ble Mr. Justice Rajiv Shakdher

W.P. No.43497 of 2016

R.Ashokpandi

..Petitioner

-vs-

1.The Regional Transport Officer,
Dharapuram,
Tirupur District.

2.The Inspector of Police,
Thali Police Station,
Thali, Udumalai Taluk,
Tirupur District.

.. Respondents

Writ Petition, filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the first respondent herein to forthwith return the petitioner's Driving License, bearing DL.No.TN5820020000890, which is valid upto 18.10.2017.

For Petitioner : Mr.A.Ganesan

For Respondents : Mr.R.Venkatesh
Government Advocate

O R D E R

Mr.R.Venkatesh, learned Government Advocate, accepts notice on behalf of the Respondents. With the consent of learned counsels for parties, the Writ Petition is taken up for final disposal even at the stage of admission.

2. The Petitioner, by virtue of the instant Writ Petition, seeks a direction for return of his Driving Licence, bearing DL.No.TN5820020000890, which is, apparently, in the custody of the Respondent No.1.

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 Tamil Nadu State Transport Corporation, Salem. It is further submitted by the petitioner that, on 19.11.2016, he was driving a Vehicle, bearing Reg. No.TN- 38- N1567 on the Udumalai - Ponnalamman route. Evidently, on that date, the said Vehicle, which the petitioner was driving met with an accident, in which, one person died. Consequently, a criminal case, for offences, under Sections 279, 304 (A) of the Indian Penal Code, was registered against the petitioner on 19.11.2016.

3.2. The investigation launched against the petitioner forms part of Crime No.327 of 2016.

4. The petitioner, further avers, that during the course of the investigation carried out by Respondent No.2, his driving licence was taken into custody and handed over to the Respondent No.1 for appropriate action.

5.It is, in these circumstances, it appears, that the petitioner on 26.11.2016 represented to the Respondent No.1, seeking return of his driving licence.

6.Based on the aforesaid facts, the Petitioner's counsel argues that the Respondent No.1 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 Government Advocate, who appears, for the Respondents says that the Respondent No.1 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 Respondent No.1 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. Respondent No.1, 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, i.e., the petitioner in this case. 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/petitioner.

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 Respondent No.1 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 a direction to the Respondent No.1 to dispose of the representation of the Petitioner, dated 26.11.2016. While doing so, the Respondent No.1 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 Respondent No.1 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.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

sd

To

1.The Regional Transport Officer,
Dharapuram,
Tirupur District.

2.The Inspector of Police,
Thali Police Station,
Thali, Udumalai Taluk,
Tirupur District.

1 cc to Mr.A. Ganesan, Advocate, Sr. 73745

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LRS (CO)
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