

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.12.2016

Coram

The Honourable Mr. JUSTICE M.SATHYANARAYANAN

Writ Petition No.43746 of 2016

P.Saravanan

... Petitioner

-Vs-

1. The Regional Transport Officer,
Namakkal.
 2. The General Manager,
Tamilnadu State Express Transport Corporation,
Pallavan Salai,
Chennai - 600 002.
 3. The Assistant Licensing Authority (North),
Regional Transport Office, Namakkal.
 4. The Inspector of Police,
Nallipalayam Police Station,
Namakkal District.
- ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the 3rd respondent to return back the licence No.TN2819910002494 of the petitioner and further direct the 2nd respondent to permit the petitioner to do duty.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.Mr.K.Dhananjayan,
Special Government Pleader for R1 &
R4 & R3
Mr.P.Paramasivadoss,
Standing Counsel for R2

O R D E R

By consent, the writ petition is taken up for final

disposal.

2. The petitioner is employed as a driver in the Tamil Nadu State Express Transport Corporation at Madurai Depot and his Staff number is 36241. The petitioner submitted that on 09.08.2016, when he was driving a bus, belonged to the Tamil Nadu State Express Transport Corporation, bearing Registration No.TN 01-AN-0094 from Bangalore to Madurai, at about 1.30 p.m., and was crossing the Puthan Santhai, at that time, a person driving TVS XL vehicle, came on the wrong direction and hit the bus and consequently, he sustained injuries and died. A complaint was registered against the petitioner in Crime No.267/2012 by the Nallipalayam Police Station for the alleged offence under sections 279 and 304(A) of IPC. The 4th respondent has seized the driving licence and forwarded the same to the 3rd respondent.

3. The grievance of the petitioner is that so far no proceedings have been initiated by the 3rd respondent and in the absence of any proceedings, he is entitled to get back the driving license. Since it has not been done so, he has also submitted a representation dated 05.12.2016 to the 2nd and 3rd respondents. Despite receipt and acknowledgement of the same, no order has been passed. Hence, he came forward to file this writ petition.

4. Learned counsel for the petitioner has drawn the attention of the Court to the order dated 22.12.2013 made in W.P.(MD).No.2877 of 2013 (C.Natesan vs. The Regional Transport Officer, Thiruvarangam, Tiruchirappalli & 3 others) and the order dated 20.12.2013 made in W.P.No.34081 of 2013 (C.Subramani vs. The Regional Transport Officer, Salem & another) and submitted that in similar facts and circumstances, this Court held that only when any of the contingencies stated in Clauses (a) to (h) of Section 19(1) of the Motor Vehicles Act has arisen, the driving license can be seized and kept in custody. In the absence of which, license cannot be withheld/kept in custody. Learned counsel also placed reliance on the judgment reported in 2011(1) CTC 711 (S.Palanikumar vs. The Regional Transport Officer (Madurai South) wherein it has been held that without initiating proceedings against a person under the provisions of Motor Vehicles Act, the Licensing Authority has no power to retain or impound the driving licence.

5. This Court, in the light of the above facts and circumstances, directs the 2nd and 3rd respondents to consider and dispose of the petitioner's representation dated 05.12.2016 on merits and in accordance with law and pass orders within a period of two weeks from the date of receipt of a copy of this

order and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Regional Transport Officer,
Namakkal.
2. The General Manager,
Tamilnadu State Express Transport Corporation,
Pallavan Salai,
Chennai - 600 002.
3. The Assistant Licensing Authority (North),
Regional Transport Office, Namakkal.
4. The Inspector of Police,
Nallipalayam Police Station,
Namakkal District.

+1cc to M/s. S.Muthukrishnan, Advocate sr.74249
+1cc to M/s. P.Paramasivadoss, Advocate sr.74977
+1cc to The Government Pleader sr.74481

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ss(10/01/2017)

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