



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.09.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.18777 of 2016

J.James Clement

... Petitioner

-vs-

1. The Regional Transport Officer,
Pudukottai, Pudukottai District.

2. The Inspector of Police,
Keeramangalam Police Station,
Pudukottai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to return the petitioner's driving licence to the petitioner forthwith.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.M.Alagadevan
Special Government Pleader

ORDER

This Writ petition has been filed seeking a direction to the respondents to return the petitioner's driving licence to the petitioner forthwith.

2.Heard the learned counsel for the petitioner and the learned Special Government Pleader who takes notice for the respondents. By consent, the writ petition itself is taken up for disposal at the stage of admission.

3.The petitioner was appointed as a driver in the Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., at Pudukottai Region on 01.08.2015 on permanent basis. Now he is working at Alangudi Branch.

4.A case in Crime No.142 of 2016 came to be registered against the petitioner on 09.09.2016 under Section 304(A) IPC on the file of Keeramangalam Police Station, on the allegation that while driving, he caused accident, which leads to the death of one Pothiappan.



5. The contention of the petitioner is that he was not negligent in driving the vehicle and as the accident took place in a T-junction, where three roads joining and it was only the deceased who was driving the two wheeler in a rash and negligent manner, which resulted an accident and therefore, he is not responsible for the same. On a instruction given by the Inspector of Police, who was investigating the case, the petitioner produced his driving licence before the Motor Vehicle Inspector attached to the office of the first respondent on 10.09.2016.

6. It is the case of the petitioner that he made several representations to the first respondent asking to return the driving licence. As it has not been considered, this Writ petition has been filed.

7. It is specifically pointed out that the respondents have not issued any show cause notice to the petitioner and conducted any enquiry to keep the driving licence with them.

8. The learned Special Government Pleader appearing for the respondents would submit that being a statutory authority, the first respondent can exercise powers under Section 19 of the Motor Vehicles Act and impound the driving licence or suspend such licence for a limited period.

9. Section 19 of the said Act is extracted hereunder for convenient reference:

"Power of licensing authority to disqualify from holding a driving licence or revoke such licence . -

(1) If a licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard, that he -

(a) is a habitual criminal or a habitual drunkard ; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 ; or

(c) is using or has used a motor vehicle in the commission of a cognizable offence ; or

(d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public ; or

(e) has obtained any driving licence or a licence to drive a particular class or description of motor vehicle by fraud or misrepresentation ; or

(f) has committed any such act which is likely to cause nuisance or danger to the public, as may be



prescribed by the Central Government, having regard to the objects of this Act; or

(g) has failed to submit to, or has not passed, the tests referred to in the proviso to sub-section (3) of section 22 ; or

(h) being a person under the age of eighteen years who has been granted a learner's licence or a driving licence with the consent in writing of the person having the care of the holder of the licence and has ceased to be in such care, it may, for reasons to be recorded in writing, make an order -

(i) disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence ; or

(ii) revoke any such licence.

(2) Where an order under sub-section (1) is made, the holder of a driving licence shall forthwith surrender his driving licence to the licensing authority making the order, if the driving licence has not already been surrendered, and the licensing authority shall, -

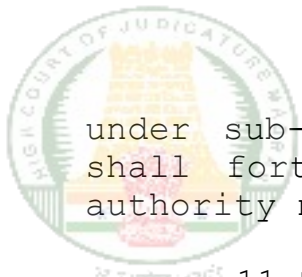
(a) if the driving licence is a driving licence issued under this Act, keep it until the disqualification has expired or has been removed ; or

(b) if it is not a driving licence issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which it was issued ; or

(c) in the case of revocation of any licence, endorse the revocation upon it and if it is not the authority which issued the same, intimate the fact of revocation to the authority which issued that licence ;

Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order, made under subsection (1), disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.

(3) Any person aggrieved by an order made by a licensing authority under sub-section (1) may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either party if so required by that party and may pass such order as it thinks fit and an order passed by any appellate authority shall be final."



under sub-section (1) is made, the holder of a driving licence shall forthwith surrender his driving licence to the licensing authority making the order.

11. Therefore, as contended by the learned counsel for the petitioner, there is no proceedings initiated under Section 19(1) of the said Act and no show cause notice has been issued.

12. Having regard to the above position, this Court is inclined to pass the following orders:

The 1st respondent is directed to return the driving licence to the Investigation Officer / 2nd respondent in Crime No.142/2016 on the file of Keeramangalam Police Station, Pudukottai District, 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 licence to the petitioner.

13. It is also made clear that the acknowledgement issued would have the effect of authorizing the holder to drive the vehicle until the license has been returned to him. This authorization may be extended either by the Police Officer or by the Court.

14. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP(MD)No.13563 of 2016 is closed.

Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Pudukottai District.
2. The Regional Transport Officer,
Pudukottai, Pudukottai District.
3. The Inspector of Police,
Keeramangalam Police Station,
Pudukottai District.

+ 1 CC TO Mr.A.RAHUL, ADVOCATE IN SR No. 57533

MJ/AR