



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2016

CORAM :

THE HON'BLE DR.JUSTICE S.VIMALA

Writ Petition(MD)No.19798 of 2016

and

W.M.P. (MD)No.14296 of 2016

A.Krishnamoorthy

:Petitioner

Vs.

The Licensing Authority,
The Regional Transport Officer,
The Regional Transport Office,
Virudhunagar District.

:Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 14.09.2016 passed in proceedings No.28941/,4/2016, by the respondent and to quash the same, consequentially, directing the respondent to return the driving license of the petitioner issued in TN 72/19970000668.

For Petitioner

: M/s.K.Abiya

For Respondent

: Mr.D.Krishnadoss,

Additional Government Pleader

O R D E R

The petitioner has obtained a driving licence on 07.02.1997. The vehicle bearing Registration No.PY01CR1999, which was driven by the petitioner, met with an accident on 31.08.2016. In the accident, a person, who was driving the bicycle, died. Immediately, First Information Report was registered against the petitioner for the alleged offence under Section 304(A) of the Indian Penal Code by the Sub-Inspector of Police, Virudhunagar Bazaar Police Station. The licence of the petitioner was seized. Thereafter, the Station House Officer, attached to Virudhunagar Bazaar Police Station, handed over the licence to the respondent along with his report dated 06.09.2016, praying the Regional Transport Officer, to take action against the petitioner.

2. The respondent issued a show cause notice under Section 19 (1) of the Motor Vehicles Act to the petitioner, to show cause as to why his driving licence cannot be revoked. The petitioner was directed to submit his explanation, within a period of seven days from the date of issuance of show cause notice. The petitioner appeared in person and during the explanation, the petitioner consistently contended that he has not violated any of the Traffic Rules and, therefore, he is not guilty of any offence,



whatsoever, as stated in the First Information Report. However, the explanation was not accepted and the driving licence of the petitioner was temporarily suspended for a period of three months starting from 14.09.2016 to 13.12.2016 and the petitioner was also directed not to drive any of the vehicle during the suspension period. Aggrieved over the impugned order, this Writ Petition has been filed.

3. The learned counsel for the petitioner relies upon a decision of this Court in P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul reported in 2010 Writ L.R. 100, whereunder, this Court held that the impugned order, pre-concluding the issue that the appellant therein is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal going into the issue and giving a finding, is liable to be set aside.

4. The learned Additional Government Pleader appearing for the respondent raised objections to the impugned order being set aside on the ground that there is every increasing road accident, taking away the life of the citizens and unless there is check and measure by detaining driving licence, accidents cannot be reduced.

5. The learned Additional Government Pleader is right in his submission only partly. Unless the person, who is really found guilty, is punished, it is not going to result in reduction of crime. However, going by the dictum laid down by this Court, I am of the view that the authority cannot pre-conclude the issue without any material. Even a perusal of the impugned order would go to show that the order passed is a non-speaking order and, therefore, on this ground also, the impugned order cannot be sustained. Therefore, the impugned order dated 14.09.2016 is set aside.

6. However, the respondent is directed to hand over the driving licence of the petitioner to the Station House Officer, who is investigating the case. The Station House Officer is directed to issue acknowledgement to the petitioner with regard to the fact that the driving licence has been seized by the Station House Officer for the purpose of production before the Criminal Court. It is made clear that the acknowledgement given by the Station House Officer would enable the petitioner to continue the job of driving till the conclusion of the Criminal Court proceedings. The Criminal Court will decide regarding the return of driving licence.

7. The Writ Petition is allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/



To
The Licensing Authority,
The Regional Transport Officer,
The Regional Transport Office,
Virudhunagar District.

+1cc to M/s.K.Abiya, Advocate in SR.60952
+1cc to the Special Government Pleader, in SR.61251

Order made in
Writ Petition (MD) No.19798 of 2016
Dated:14.10.2016

sml
PBK/CK 11/11/2016 ::3P-4C: