



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2016

C O R A M

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.(MD) No.21348 of 2016

A.Robert

.. Petitioner

-vs-

The Regional Transport Officer,
Theni,
Theni District.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in Se.Mu.AA.No.32701/E1/2016 dated 17.10.2016, quash the same and consequently, direct the respondent herein to return the original driving licence of the petitioner bearing Licence No.TN-57 19970004212.

For petitioner

... Mr.K.Appadurai

For Respondent

... Mr.T.S.Mohamed Mohideen

Addl. Govt. Pleader

O R D E R

This petition has been filed, seeking to quash the impugned order dated 17.10.2016 passed by the respondent in Se.Mu.AA.No.32701/E1/2016, by which, the respondent cancelled the licence of the petitioner till its expiry on 28.01.2017 on the allegation that the petitioner drove the school vehicle in a rash and negligent manner on 28.09.2016 and caused injuries on the rider of the two wheeler. The petitioner also sought direction to the respondent herein to return the original driving licence of the petitioner bearing Licence No.TN-57 19970004212.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3. The case of the petitioner is that based on registration of a case registered in Crime No.291 of 2016 by the Sub Inspector of Police, K.Vilakku Police Station, the impugned order came to be passed by the respondent.



4. The impugned order is under challenge on the following grounds, namely, a) the authority who passed the order has preconcluded that the petitioner had driven the vehicle in a rash and negligent manner and therefore, his licence is liable to be cancelled; b) that authority has not taken into account the explanation given by the petitioner before passing the order, which is also a non speaking order and c) though the respondent has passed the order invoking Section 19(1) of the Motor Vehicle Act, the mandate of the said section, viz., reasons to be recorded in writing, has not been followed and therefore, on these grounds, the impugned order is liable to be set aside.

5. Learned counsel for the petitioner, in support of his submission, relied upon a judgment of this Court in the case of **A.Krishnamoorthy vs. The Licensing Authority, Virudhunagar District [W.P. (MD) No.19798 of 2016] dated 14.10.2016**, wherein, this Court directed the respondent therein to hand over the licence of the petitioner therein to the Station House Officer, who in turn was directed to issue acknowledgment with regard to seizure of the licence.

6. Learned Additional Government Pleader would contend that considering the increase in road accidents, strict actions are being taken by the respondent and the petitioner was found driving the school van in a rash and negligent manner and caused an accident and therefore, the impugned order was passed cancelling his driving licence.

7. The respondent has invoked Section 19(1) of the Motor Vehicles Act for the purpose of cancelling the driving licence of the petitioner. But without any order either from the Criminal Court or Claims Tribunal, the respondent has no jurisdiction to exercise the said provision and this Court would not have come to the rescue of the petitioner, in case the impugned order has been passed after getting an order from the competent Court of law. Hence, the impugned order is set aside.

8. The respondent is directed to hand over the driving licence to the concerned Station House Officer, who in turn shall issue acknowledgment 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 open to the concerned Court to return the driving licence to the petitioner by making an endorsement that the petitioner is found guilty in an accident case.

9. However, it is made clear that the acknowledgment given by the Station House Officer would enable the petitioner to continue his job till the conclusion of the Criminal Court proceedings.



10. With the above observation and direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSII)

WEB COPY

/True Copy/

Sub Assistant Registrar

ar

To:

The Regional Transport Officer,
Theni, Theni District.

+1cc to Mr.K.Appadurai, Advocate Sr.No. 69379

+1cc to Spl.Government Pleader Sr.No. 69327

JAM/24.01.2017/SKN/SAR I/3P-4C

W.P. (MD) No.21348 of 2016

15.11.2016