

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.8104 of 2017

K.Siva Kumar
Anna Salai
Balu Chetty Chatram
Kancheepuram

... Petitioner

vs.

1. Inspector of Police
Traffic Investigating Wing,
Elephant Gate Police Station,
Chennai
2. The Licensing Authority-Cum-
The Regional Transport Officer
Kancheepuram,
Kancheepuram District.

.... Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus or any other appropriate writ or order or direction in the nature of a writ, directing the second respondent herein to return the Original Driving Licence (DL.No.TN-21-19920000818) of the petitioner herein.

For Petitioner : Mr.K.Hariharan

For Respondents : M.Elumalai, Government Advocate.

O R D E R

Mr.M.Elumalai, learned Government Advocate, takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks for a Mandamus, directing the respondents to return the petitioner's driving license bearing No. TN-21-19920000818.

3. Heard both sides.

4. The petitioner is a driver in the Metropolitan Transport Corporation, Chennai. It is stated that the petitioner's driving licence was seized on 07.02.2017, in pursuant to an accident taken place and followed by the registration of FIR in Crime No.72 of 2017 under Sections 279 and 337 of IPC, later altered to section 304-A IPC. Now the petitioner seeks for return of the driving licence by contending that the respondents are not entitled to seize and retain the driving licence, simply because a criminal case is filed against the petitioner and the same is pending. It is also stated that till date, no show cause notice is issued to the petitioner. It is also stated that the respondents have not passed any order, suspending the petitioner's license also.

5. The learned counsel appearing for the petitioner invited the attention of this Court to the Division Bench decision of this Court reported in 2010 Writ L.R. 100 (P.Sethuram vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul) and a single Judge decision made in W.P.No.16958/2013 dated 01.07.2013 reported in 2013 Writ L.R.843 (S.Duraivelu vs. The Regional Transport Officer, West Tambaram, Chennai & 2 others), wherein, this Court has considered a similar issue and found that even the suspension of the license on the ground that a criminal case is pending, is erroneous. I myself followed the above decisions in similar cases, wherein licence was suspended. In this case, as it is stated that the petitioner's driving license is not suspended and that the show cause notice has also not been issued so far, I do not think that the respondents are justified in retaining the driving license of the petitioner.

6. Accordingly, this writ petition is allowed and the respondents are directed to return the driving license to the petitioner within a period of seven days from the date of receipt of a copy of this order. It is needless to say, that it is open for the respondents to initiate appropriate proceedings in accordance with law, by giving due notice to the petitioner and hearing the matter thereafter. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vsi

To

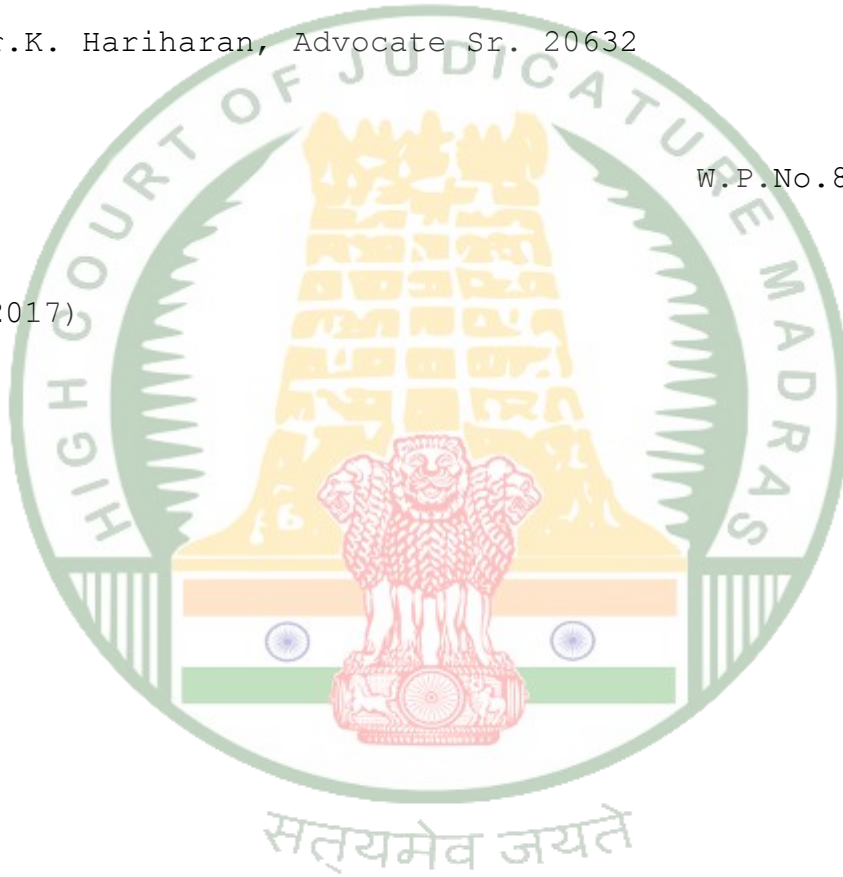
1. Inspector of Police,
Traffic Investigating Wing,
Elephant Gate Police Station,
Chennai.

2. The Licensing Authority Cum
The Regional Transport Officer,
Kancheepuram, Kancheepuram District.

+lcc to Mr.K. Hariharan, Advocate Sr. 20632

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