

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.2.2017.

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.4817 of 2017

T.Mahendran

Petitioner

vs.

1. The Licensing Authority,
Regional Transport Office (Central),
Ghanhipuram Road,
Coimbatore District.
2. The Inspector of Police,
Traffic Investigation Wing,
T1W-West Police Station,
Coimbatore District.
3. The General Manager,
Tamil Nadu State Transport
Corporation Ltd.,
No.37, Mettupalayam Road,
Coimbatore.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 1 and 2 to return the Driving Licence of the petitioner forthwith.

For Petitioner : Ms.S.A.Mahisha Kirthika

For RR1 and 2 : Mr.Akil Akbar Ali, Govt. Advocate

ORDER

Heard Ms.S.A.Mahisha Kirthika, learned counsel for the petitioner and Mr.Akhil Akbar Ali, learned Government Advocate, who takes notice on behalf of respondents 1 and 2.

2. The writ petition has been filed seeking a writ of mandamus directing respondents 1 and 2 to return the Driving Licence of the petitioner forthwith.

3. The case of the petitioner is that he is working as a Driver in the third respondent-Transport Corporation. On 3.10.2016, while he was driving the bus bearing registration No.TN-38-N-2470 from Kasthuripalayam to Ukkadam in route No.32H, motorcyclist came in a rash and negligent manner and despite the petitioner's applying brake, the fell down by hitting the bus and sustained injuries for which, a criminal case was registered in Crime No.396 of 2016.

4. Learned counsel for the petitioner would submit that the accident occurred only due to the negligence on the part of the motorcyclist, however, a criminal case was registered against the petitioner and the petitioner's licence was seized by the police officials and handed over to the first respondent, the licensing authority. It appears that consequent to the accident and the criminal case, the petitioner is facing departmental proceedings and since his licence was seized, he is not able to joint duty.

5. The learned counsel for the petitioner would further submit that pendency of criminal case cannot be a ground to suspend or revoke a licence and the authorities have to follow the procedure contained in Section 19 of the Motor Vehicles Act. The learned counsel placed reliance on the decision of a Division Bench of this court in P.SETHURAM v. THE LICENSING AUTHORITY, THE REGIONAL TRANSPORT OFFICER, DINDIGUL (MADURAI BENCH) (2010 WRIT L.R. 100) in support of his contention.

6. The learned Government Advocate would submit that proceedings under section 19(1) of the Motor Vehicles Act had already been initiated against the petitioner.

7. The Division Bench, in the decision cited supra, has observed that the licensing authority has power to revoke any licence or disqualify any person for a specific period from holding or obtaining a driving licence, but, that power can be invoked only after giving an opportunity of being heard to the holder of the licence. In the case on hand, it is not in dispute that immediately, after the accident, the licence of the petitioner was seized by the second respondent and handed over to the first respondent. In the light of the judgment referred to above, the respondents have no authority to seize the licence at this juncture.

8. In such a view of the matter, respondents 1 and 2 are directed to return the licence of the petitioner forthwith. It is open to the respondents to proceed in accordance with law in

other aspects.

9. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

ssk.

To

1. The Licensing Authority,
Regional Transport Office (Central),
Ghanhipuram Road,
Coimbatore District.
2. The Inspector of Police,
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T1W-West Police Station,
Coimbatore District.
3. The General Manager,
Tamil Nadu State Transport
Corporation Ltd.,
No.37, Mettupalayam Road, Coimbatore.

+1cc to Government Pleader sr.13151

+1cc to Mr.P.Kannan Kumar, Sr.13505

+1cc to Mr.Sheyamala, Advocate sr.13244

msm(co)
ss(3/3/2017)

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