

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.05.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 11505 of 2017

C. Saravanan

..Petitioner

Vs.

The Assistant Licensing Authority,
Regional Transport Office,
Cheyyar.

..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondent to return the original licence of the petitioner bearing No. TN 25Z 19980001527 issued by the respondent to petitioner forthwith.

For Petitioner :: Mr.B.R. Shankaralingam

For Respondent :: Mr.K. Dhananjayan,
Special Govt. Pleader

O R D E R

The petitioner is a Driver employed by the Chennai Metropolitan Transport Corporation. On 23.03.2017, while he was driving a trailer attached bus bearing Registration No. TN 01 N 4526 from Kelambakkam to Kalaignar Nagar, a two-wheeler, driven by its rider, in a rash and negligent manner, hit on the left rear side of the bus while attempting to overtake on the left hand side. Though the petitioner and the conductor of the bus provided first aid and arranged for sending the injured to the Government Hospital, the two-wheeler rider succumbed to the injuries on the way to the hospital. Therefore, the Inspector of Police, Traffic Investigation, Guindy, registered a case in Crime No. 207 of 2017 under Sections 279 & 304(A) of IPC and the investigation is pending.

2. In the meanwhile, the driving licence of the petitioner was seized by the Police and it was recommended to the respondent for cancellation. Therefore, the petitioner submitted a representation to the respondent on 29.03.2017 to reject the recommendation of the Police Authorities and to

return the original driving licence to him. Since the said representation has not been disposed of, the petitioner has come before this Court.

3. Heard Mr.B.R. Shankaralingam, learned counsel for the petitioner and Mr.K. Dhananjayan, learned Special Government Pleader, who takes notice on behalf of the respondent.

4. Mere pendency of a criminal case will not enable the authorities, either to suspend or cancel the driving licence of the petitioner and only after the criminal proceedings are over, proper action could be taken. In this regard, learned counsel for the petitioner would rely upon a Division Bench's judgment of this Court in P. Sethuram V. The Licensing Authority, The Regional Transport Officer, Dindigul reported in 2009 (2) TN MAC 252 wherein it has been held that suspension or cancellation of driving licence, even before the Criminal Court or the Motor Accidents Claims Tribunal, went into the issue, would amount to pre-conclusion of the issue namely, rash and negligent driving of the vehicle by the offender and therefore, the Division Bench set aside the order impugned therein and directed the authorities to return the driving licence to the petitioner therein. Following the same, a learned Single Judge of this Court in the judgment in R. Ravi V. The Regional Transport Officer reported in 2015 2 CTC 626, set aside the impoundment of the driving licence of the petitioner therein, even prior to the completion of the Criminal Case or Motor Accident Claim case and directed return of the driving licence.

5. In the light of the ratio laid down by the Division Bench of this Court, which was subsequently followed by a learned Single Judge of this Court, the impugned order is set aside and the respondent is directed to return the driving licence to the petitioner within a period of one week from the date of receipt of a copy of this order. However, it is made clear that this will not preclude the respondent from initiating any action, if any of the contingencies specified in Motor Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government, in pursuance of the provisions of the Act, are violated.

6. The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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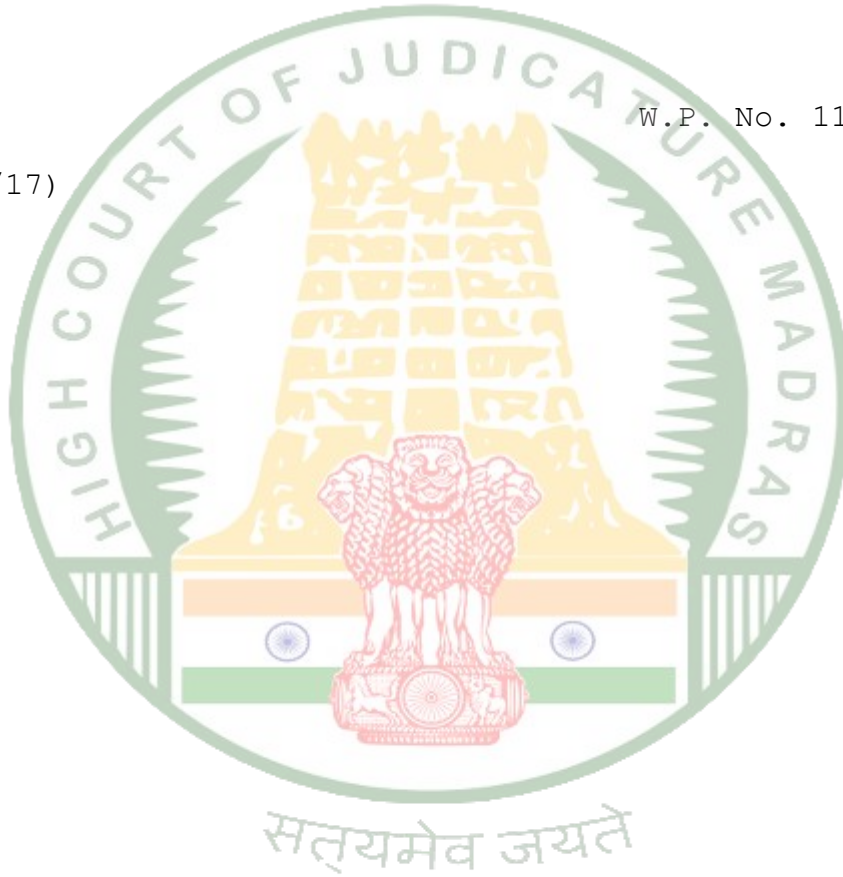
The Assistant Licensing Authority,
Regional Transport Office,
Cheyyar.

+1cc to Mr.B.R.Shankaralingam, Advocate, S.R.No.36746

+1cc to the Government Pleader, S.R.No.36912

skv(co)
rmp(09/05/17)

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