

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.12.2017

CORAM

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.32089 of 2017

and

W.M.P.Nos.35239, 35240 & 35648 of 2017

R.Patturaja

...Petitioner

vs.

1. The Licensing Authority,
Regional Transport Officer,
Perumbalur.

2. The Inspector of Police,
Perambalur Police Station,
Perambalur,
Perambalur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent in Na.Ka.No.31940/A5/2017 dated Nil signed on 20.09.2017 and quash the same and consequently direct the respondents to return the Petitioner's original driving license bearing DL No.TN 69 20080002980 to the petitioner within a time limit that may be fixed by this Court.

For Petitioner : Mr.R.Krishnswamy

For Respondents : Mr.R.Govindasamy,
Special Government Pleader

O R D E R

Mr.R.Govindasamy, learned Special Government Pleader takes notice for the respondents and by consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the order of the first respondent dated 20.09.2017 suspending the petitioner's driving license commencing from 08.09.2017 to 07.03.2018, on the reason that F.I.R has been registered against the petitioner for causing an accident.

3. It is stated that a criminal case in Crime No.1072/2017 under sections 279 and 337 IPC was registered against the petitioner and the same is still pending. The respondents seized the driving license of the petitioner and consequently, the present impugned order is passed, after issuing the show cause notice to the petitioner.

4. Learned counsel appearing for the petitioner submitted that suspending the petitioner's driving license is erroneous, especially, when the criminal case filed against the petitioner is pending and not ended against him. He further submitted that when the show cause notice was served, he was admitted in the hospital and he has not given any explanation. The impugned order was passed without hearing the petitioner and without providing sufficient opportunity to the petitioner. Learned counsel relied on 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 Thambaram, Chennai & 2 others).

5. Learned counsel appearing for the respondents submitted that the petitioner can avail the alternative remedy of filing an appeal.

6. Heard both sides.

7. It is not in dispute that the petitioner's license was suspended for the period commencing from 08.09.2017 and 07.03.2018. It is also not in dispute that the criminal case filed against the petitioner is still pending and has not reached its finality. Similar question has arisen before the Division Bench of this Court as to whether the Licensing Authority can suspend the license merely because the criminal case was registered against the driver in respect of a road traffic accident. The Division Bench, while considering the said issue and also considering the objection that an appeal has to be filed against the said order has found in paragraph No.11 as follows:

11. The respondent has, in the impugned order, preconcluded the issue

that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind.

8. While considering the objection with regard to the availability of alternative remedy of appeal is concerned, the Division Bench has rejected such contention. The very same decision was followed by the learned single Judge of this Court reported in 2013 Writ L.R.843 (S.Duraivelu vs. The Regional Transport Officer, West Tambaram, Chennai & 2 others) wherein the learned Judge has observed in paragraph No.4 as follows:

4. The license of the petitioner was suspended solely on the ground that he was involved in a criminal case under Section 304-A IPC. The criminal case is still pending. The factum of involvement of the petitioner in an offence under Section 304-A of the Indian Penal Code would not give any jurisdiction to the respondent to suspend the license. Therefor, I am of the view that the respondent was not justified in suspending the license of the petitioner.

9. Accordingly, the writ petition is allowed and the impugned order is set aside and the respondents are directed to return the driving license forthwith. However, it shall not preclude the respondents from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Motor Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) of the Act, are violated. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Licensing Authority,
Regional Transport Officer, Perumbalur.

2. The Inspector of Police,
Perambalur Police Station,
Perambalur, Perambalur District.

+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.88695

+1cc to the Government Pleader, S.R.No.89019

W.P.No.32089 of 2017

RRK(18/12/2017)



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