

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09-02-2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.3239 of 2017

R. Anbalagan

.. Petitioner

Vs.

1. Inspector of Police
Shoolagiri Police Station
Krishnagiri District

2. The Licensing Authority cum-
Regional Transport Officer
Hosur
Krishnagiri District

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the first respondent herein to return the petitioner's driving licence bearing DL.No.TN-27-19820003990 forthwith.

For Petitioner : Mr. K. Hariharan

For Respondents: Mr. Akhil Akbar Ali,
Govt. Advocate

ORDER

1. Issue notice. Mr. Akhil Akbar Ali, learned Government Advocate accepts notice on behalf of the respondents.

1.1 With consent of the learned counsel appearing for the parties, the writ petition is taken up for hearing and final disposal.

2. The facts which are required to be noticed for adjudication of the present writ petition are briefly set out hereafter:

2.1. The petitioner avers that he is employed as a driver in KPN Travels, Salem. It is further submitted by the petitioner that on 01-01-2017, he was driving a Bus bearing Registration No.KA-41/A-6999. Evidently on that date, the said vehicle, which admittedly, the petitioner was driving collided with a motorcycle.

2.2 The driver of the motorcycle died in the accident. Consequently, a criminal case under Sections 279, 337 and 304 (A) of the IPC was registered against the petitioner, on 01-01-2017.

2.3 The investigation launched against the petitioner form part of Crime No.2 of 2017.

3. The petitioner, further avers, that during the course of the investigation carried out by respondent no.1, his driving licence was taken possession and handed over to the second respondent for appropriate action.

4. It is, in these circumstances, it appears, that the petitioner on 30-01-2017 represented to the second respondent, seeking return of his driving licence.

5. Based on the aforesaid facts, the petitioner's counsel argues that the second respondent has no authority to seize the petitioner's driving licence prior to a finding of conviction being returned, by the concerned criminal court. In support of his submissions, learned counsel for the petitioner relies upon the following judgments:

- i. P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, Dindigul (Madurai Bench) (2010 Writ L.R. 100);
- ii. G.Jayaprakash vs. The Secretary to Government & Others (2010 Writ L.R. 104);
- iii. R.Ravi vs. The Regional Transport Officer, Transport Department, Chennai (2015 (2) CTC 626);
- iv. Order in W.P.No.23179 of 2016 (between M.Rathinakumar and The Inspector of Police, Traffic Investigating Wing and Another) decided on 12.07.2016.

6. On the other hand, learned counsel for the respondents says that the second respondent has the power to revoke the licence pursuant to powers conferred in that behalf under Section 19 of the Motor Vehicles Act, 1988 (in short, the 1988 Act).

7. I have heard the learned counsel for the parties. According to me, while there is no doubt that the second respondent would have the power to revoke the licence or even disqualify the licence holder from holding a driving licence, that power can be exercised only if the provisions of the said section i.e., Section 19 are scrupulously followed.

7.1 The second respondent, inter alia, is required to issue in the first instance a show cause notice. The show cause notice, in turn, should necessarily advert to the clause or clauses of sub-section (1) of Section 19 which are proposed to be triggered against the noticee. The noticee is required to be given an opportunity to present his case, and, only thereafter, can any punitive order be passed against the noticee, i.e., holder of the driving licence.

7.2 The mere pendency of a criminal case, which may, in the circumstances, lead to an acquittal, is not a good enough reason to seize the driving licence pending trial in the criminal

case. Therefore, the power that the second respondent seeks to exercise under Section 19 of the Motor Vehicles Act, 1988, has to be exercised in consonance with the provisions of the said section and other appurtenant powers conferred under the 1988 Act and Rules framed thereunder.

8. Accordingly, the writ petition is disposed of with a direction to the second respondent to dispose of the representation of the petitioner dated 30-01-2017. While doing so, the second respondent will bear in mind the provisions of the 1988 Act and the judgments of this Court to which reference has been made hereinabove.

9. Needless to say, the second respondent will act with due expedition and, thus, conclude the aforesaid exercise not later than four (4) weeks from the date of receipt of a copy of the order.

9.1 No costs.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

glp

To

1. The Inspector of Police
Shoolagiri Police Station
Krishnagiri District
2. The Licensing Authority cum-
Regional Transport Officer
Hosur
Krishnagiri District

+ 1 cc to Mr.K.Hariharan, Advocate Sr.8444
+ 1 cc to Government Pleader Sr.8936

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