

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09-02-2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.3248 of 2017

S.Kumar

.. Petitioner

Vs.

1. The Regional Transport Officer
Kumar Nagar, Tirupur (North)
Tirupur

2. The Inspector of Police
Avinashi Police Station
Avinashi, Tirupur

.. 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-29-20050002916 forthwith.

For Petitioner : Mr. A. Ganesan

For Respondents : Mr. R. Venkatesh, Govt. Advocate

ORDER

1. Issue notice. Mr. R. Venkatesh, 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 with the Tamil Nadu State Transport, Salem Division & Region, Mettur Branch. It is further submitted by the petitioner that on 19-01-2017, he was driving a Bus bearing Registration No.TN-30-N-0909 from Kovai to Salem. 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, 304 (A) of the IPC was registered against the petitioner, on 19-01-2017.

2.3 The investigation launched against the petitioner form part of Crime No.46 of 2016.

3. The petitioner, further avers, that during the course of the investigation carried out by respondent no.2, his driving licence was taken into custody and handed over to the first respondent for appropriate action.

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

5. Based on the aforesaid facts, the petitioner's counsel argues that the first 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 first 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 first 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 first 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 orders 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 given 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 first 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 first 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 first 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/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

glp

To

1. The Regional Transport Officer
Kumar Nagar, Tirupur(North)
Tirupur

2. The Inspector of Police
Avinashi Police Station
Avinashi, Tirupur.

+1cc to Mr.A.Ganesan, Advocate SR.No.8329.

W.P.No.3248 of 2017

CA(CO)
GN(16/02/2017)