

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.23869 of 2017

S.Dhandapani

.. Petitioner

Vs.

1. The Transport Commissioner
Chepauk,
Chennai-600 005.
2. The Assistant License Issuing Authority
O/o. Regional Transport Office
Anna Nagar (West)
Chennai.
3. The Regional Transport Officer
Poonamallee Regional Transport Office
Poonamallee, Thiruvallur District.
4. The Inspector of Police
B7 Vellavedu Police Station
Thiruvallur District.
5. The Branch Manager
Metropolitan Transport Corporation
K.K.Nagar Depot, Chennai.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 4 to return the petitioner's license in D.L.No. TN 02 19990005731 enable him to join and continue his service in the 5th respondent transport Corporation.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.A.Kumar

Special Government Pleader for R1 to R4

O R D E R

Mr.A.Kumar, learned Special Government Pleader, takes notice for the respondents 1 to 4. Mr.P.Paramasivados, learned standing counsel takes notice for the fifth respondent.

2. The petitioner seeks for a Mandamus, directing the respondents 1 to 4 to return the petitioner's driving license bearing No. TN02 19990005731.

3. Heard both sides.

4. The petitioner is a driver in the Metropolitan Transport Corporation. It is stated that the petitioner's driving licence was seized on 29.08.2017, in pursuant to an accident taken place on 26.08.2017 and followed by the registration of FIR in Crime No.694 of 2017 under Sections 279 and 304(A) of IPC. It is further stated that the license of the petitioner is not suspended so far. It is further stated that till date, no show cause notice is issued to the petitioner. Therefore, it is contended by the petitioner that the seizure of the license and retaining the same is erroneous merely because the criminal case was registered against the petitioner in respect of an accident. Learned counsel for the petitioner, in support of his contention relied on the decision 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 1 to 4 submitted that the license of the petitioner was seized since an accident had taken place on 26.08.2017 while the petitioner was driving the vehicle.

6. It is seen that the petitioner's driving license was seized pursuant to the accident that had taken place on 26.08.2017 followed by the registration of the criminal case. It is further seen that the license of the petitioner has not been suspended so far. Even in respect of the cases where the license was suspended, this Court in the above referred cases, has held that the authorities are not entitled to suspend the license merely because the criminal case is registered against the petitioner. Therefore, the petitioner is entitled to get back the license, however, with liberty to the respondents 1 to 4 to proceed against the petitioner in accordance with law.

7. Accordingly, the writ petition is allowed and the respondents 1 to 4 are directed to return the driving license of the petitioner immediately on receipt of a copy of this order. However, it shall not preclude the respondents 1 to 4 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.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Transport Commissioner
Chepauk,
Chennai-600 005.
2. The Assistant License Issuing Authority
O/o. Regional Transport Office
Anna Nagar (West)
Chennai.
3. The Regional Transport Officer
Poonamallee Regional Transport Office
Poonamallee, Thiruvallur District.
4. The Inspector of Police
B7 Vellavedu Police Station
Thiruvallur District.
5. The Branch Manager
Metropolitan Transport Corporation
K.K.Nagar Depot, Chennai.

+1cc to Mr.A.Rajesh Kanna, Advocate SR.No.73928

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GN(27/10/2017)