

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.26277 of 2017

T.Kasinathan

.. Petitioner

Vs.

1. The Transport Commissioner,
Chepauk, Chennai - 600 005.

2. The Assistant License Issuing Authority,
O/o Regional Transport Office,
Thiruvannamalai,
Thiruvannamalai District.

3. The Regional Transport Officer,
Regional Transport Office West,
K.K.Nagar, Chennai - 78,

4. The Inspector of Police,
J3, Guindy Traffic Investigation
Police station,
Chennai - 600 032.

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 to direct the respondents 1 to 4 to return the petitioner's driving license in D.L.No.TN 28 Z19870000815 enable him to join and continue his service in the 5th respondent Transport Corporation.

For Petitioner: Mr.A.Rajesh Kanna

For Respondents: Mr.Manishankar,

Additional Advocate General
assisted by

Mr.A.Kumar,

Special Government Pleader for R1to R4.

Mr.P.Kannankumar,

Standing Counsel for R5

O R D E R

Mr.A.Kumar, learned Special Government Pleader, takes notice for the respondents 1 to 4 and Mr.P.Kannankumar, learned Standing Counsel takes notice for the 5th respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks for a Mandamus to direct the respondents 1 to 4 to return the petitioner's driving license in D.L.No.TN 28 Z19870000815 enable him to join and continue his service in the 5th respondent Transport Corporation.

3. The petitioner is working as a driver in the Metropolitan Transport Corporation at Alandur Depot. It is stated that the petitioner's driving licence was seized in pursuant to an accident that had taken place on 11.09.2017 followed by the registration of FIR in Crime No.602 of 2017 under Sections 279,304(A) and 338 IPC. It is 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).

4. Learned counsel appearing for the respondent submitted that the license of the petitioner was seized since an accident had taken place on 11.09.2017 while the petitioner was driving the vehicle.

5. Heard both sides.

6. It is seen that the petitioner's driving license was seized pursuant to the accident that had taken place on 11.09.2017 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 to proceed against the petitioner in accordance with law.

7. Accordingly, the writ petition is allowed and the respondents 3 & 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

vsi

To

1. The Transport Commissioner,
Chepauk, Chennai - 600 005.
 2. The Assistant License Issuing Authority,
O/o Regional Transport Office,
Thiruvannamalai,
Thiruvannamalai District.
 3. The Regional Transport Officer,
Regional Transport Office West,
K.K.Nagar, Chennai - 78,
 4. The Inspector of Police,
J3, Guindy Traffic Investigation Police station,
Chennai - 600 032.
 5. The Branch Manager,
Metropolitan transport Corporation,
K.K.Nagar Depot, Chennai.
- + 1 cc to Mr.R. Rajesh Kanna, Advocate SR.73558
+ 1 cc to Mr.P. Kannan Kumar, Advocate Sr.73543

W.P.No.26277 of 2017

CS-IV

EU(13/10/2017)