

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.27580 of 2017
and
W.M.P.No.29509 of 2017

S.Rajesh

[PETITIONER]

Vs

The Regional Transport Authority/
Licensing Authority,
Office of the Regional Transport Authority,
Ponvilzha Nagar,
Karamadai Road, Mettupalayam,
Coimbatore District.

[RESPONDENT]

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 28.09.2017 issued by the respondent in Memo No.37016/A3/2017, quash the same and consequently direct the respondent to return forthwith the petitioner original driving license bearing No.TN-3619970001582, without any endorsement and within a specified time fixed by this Court.

For Petitioner : Mr.R.Krishnasamy

For Respondents : Mr.P.V.Selvakumar
Additional Government Pleader

O R D E R

The petitioner is aggrieved against the proceedings dated 28.09.2017, issued by the respondent and consequently seek for a direction to the first respondent to return his driving license bearing No.TN-3619970001582

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3.The grievance of the petitioner is that though the impugned proceedings is only a notice calling upon the

petitioner to appear for enquiry on 05.10.2017, the same was served on the petitioner only on 09.10.2017 and therefore, the petitioner was prevented from participating in the enquiry scheduled on 05.10.2017. It is further contended that at any event, the respondent is not in a position to retain the driving license of the petitioner based on an allegation that the petitioner has driven the vehicle in a rash and negligent manner thereby causing a loss of life.

4.Learned counsel for the petitioner submitted that though the impugned notice was dated as 28.09.2017, the same was posted on 04.10.2017 and received at the delivery post office only on 06.10.2017 and as the petitioner out of station, intimation was given by the postman on 07.10.2017 about the receipt of such cover from the respondent. Therefore, he contended that it is evident that the impugned notice was sent without having any purpose as the date of enquiry has already lapsed.

5.Learned Additional Government Pleader for the respondent is not in a position to dispute the above contentions.

6.Perusal of the materials placed before this court, more particularly, the xerox copy of the cover and the seals affixed by the respective post officers would show that the impugned notice was sent to the petitioner by giving reasonable time. On this ground, the impugned notice is liable to be set aside and the matter has to be remitted back to the respondent for issuing fresh notice against the petitioner in accordance with law.

7.Insofar as the second limb of the prayer for return of driving license is concerned, the said issue is already covered by this Court in 2010 Writ L.R. 100 (P.Sethuram vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul) and also 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 Tambaram, Chennai & 2 others), wherein it is stated 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.

8.Accordingly, this writ petition is allowed and the impugned notice is set aside. Consequently, the matter is remitted back to the respondent for proceeding against the petitioner in accordance with law after issuing fresh notice and giving sufficient opportunity. In view of the earlier order passed by this Court as extracted supra, the respondent is directed to return the driving license to the petitioner immediately on receipt of the copy of this order. However, it shall not preclude the respondent 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. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vri

To

The Regional Transport Authority/
Licensing Authority,
Office of the Regional Transport Authority,
Ponvilzha Nagar,
Karamadai Road, Mettupalayam,
Coimbatore District.

+1cc to Mr.V.Ajoy Khose, Advocate SR.No.90295(22/12/2017)
+1cc to Government pleader, SR.No.90827(22/12/2017)

W.P.No.27580 of 2017

GN(21/12/2017)

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