

In the High Court of Judicature at Madras

Dated: 07.03.2017

Coram

The Honourable Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.1889 of 2017

and

W.M.P.No.1880 of 2017

N.Palanisamy

..... Petitioner

Vs.

The Regional Transport Authority/
Licensing Authority,
Office of the Regional Transport Authority,
Mettupalayam,
Coimbatore District.Respondent

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the respondent to return forthwith the petitioner original driving licence bearing No.TN 36 Z 200 20000 755, without any endorsement and within a specified time as may be fixed by this court.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.Akhil Akbar Ali
Government Advocate

O R D E R

The petitioner is a driver in Tamilnadu State Transport Corporation. His driving license was seized through the Inspector, Periyanaickenpalayam Police Station consequence of an accident that has taken place on 19.12.2016. The present writ petition is filed seeking for a direction to the respondent to return the driving license of the petitioner.

2. The main contention of the petitioner is that the respondent is not entitled to seize the driving license merely based on registration of FIR. It is further contended that the petitioner was not issued with any show cause notice before seizing the license.

3.Counter affidavit is filed wherein it is stated that a show cause notice was already issued on 24.01.2017 and the petitioner has not given any explanation so far.

4.Learned counsel appearing for the petitioner in support of his contention relied on the Division Bench decision of this Court reported in 2010 WLR page 100, P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul, wherein the Division Bench has observed that power to suspend or revoke a license cannot be invoked based on the reason that a criminal complaint was merely registered against the driver.

5.Learned Government Advocate appearing for the respondent submitted that since a show cause notice was already issued to the petitioner, it is for him to give explanation and allow the proceedings to go on in accordance with law.

6.Heard both sides.

7.The petitioner's license was admittedly seized on 19.12.2016 in pursuant to an accident that had taken place on the said date followed by registration of a criminal case in Crime No.551/2016 under sections 279 and 304A IPC on 22.12.2016. However, it is seen that the show cause notice came to be issued only later on 24.01.2017. Therefore, it is evident that the action of seizing the license of the petitioner has preceded the issuance of the show cause notice. Therefore, I find that seizure of the license without affording an opportunity of hearing to the petitioner cannot be sustained. Even in respect of cases, where show cause notice was issued and final order of suspension of license came to be passed based on registration of a criminal case is concerned, the Division Bench of this Court in the above said decision has observed that no such action can be taken merely because a criminal case was registered.

8.Considering the above stated facts and circumstances, this writ petition is allowed and the respondent is directed to return the original driving license to the petitioner within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the direction issued in this writ petition will not preclude the respondent to proceed against the petitioner in accordance with law in pursuant to the show cause notice issued on 24.11.2017. If the petitioner has not given explanation to the show cause notice so far, he is given two weeks time for giving such explanation from the date of receipt of a copy of this order. On receipt of such explanation, the first respondent will consider the same and after giving an opportunity of personal hearing to the petitioner, pass final

orders on merits and in accordance with law. Such exercise shall be done by the respondent within a period of eight weeks from the date of receipt of the explanation. No costs. The connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To
The Regional Transport Authority/
Licensing Authority,
Office of the Regional Transport Authority,
Mettupalayam,
Coimbatore District.

+1 cc to Govt.Pleader,sr.15306

+1 cc to M/s.v.Ajoykhose,advocate,sr.14565.

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krd 20/3

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