

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.19431 of 2017
and W.M.P.Nos.20954 & 20955 of 2017

N.Shanmugam

... Petitioner

Vs.

The Regional Transport Authority/Licensing Authority,
Office of the Regional Transport Authority,
Coimbatore (North),
Kovaipudur, Coimbatore - 641 042.

... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the order dated 17.07.2017 passed by the respondent in Na.Ka.No.27713/A4/2017, quash the same and consequently direct the respondent to return forthwith the petitioner's original driving licence bearing No.TN3719960006042 without any endorsement.

For Petitioner : Mr.V.Ajoy Khose

For Respondent : Mr.S.Diwakar,
Special Government Pleader

WEB COPY
O R D E R

Mr.S.Diwakar, learned Special Government Pleader takes notice for the respondent. By consent, the main Writ Petition is taken up for disposal at the admission stage itself.

2.The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records pertaining to the order dated 17.07.2017 passed by the respondent, to quash the same and consequently direct the respondent to return forthwith the petitioner's original driving licence without any endorsement.

3.According to the petitioner, he was working as a Driver in the Tamil Nadu State Transport Corporation Limited, Coimbatore Region. According to the petitioner, as per the FIR, when he was on duty on 28.05.2017 and while he was driving the Bus bearing Registration No.TN 38 N 2205 plying between Sadi Vayal and Gandhipuram, the bus met with an accident and a person aged about 50 years had died. However, the petitioner contended that his bus did not involve in the accident and that he only helped the victim. The petitioner gave a representation on 04.07.2017 before the respondent pointing out that he was noway responsible for the accident. However, the respondent, without examining any eye witness, has issued the impugned order dated 17.07.2017 suspending the licence for three months from 13.06.2017 to 12.09.2017 invoking Section 19(1) of the Motor Vehicles Act.

4.The learned counsel for the petitioner submitted that the Criminal Case registered against the petitioner in Crime No.19 of 2017 on 05.06.2017 under Sections 279 and 304(a) of IPC is pending investigation. The learned counsel further submitted that the respondent, even without examining any witness or any finding given by the Criminal Court, imposed the punishment by suspending the licence for three months. In support of his contention, the learned counsel relied upon a judgment of a Division Bench of this Court reported in 2010 Writ L.R. 100 [P.Sethuram V. The Licensing Authority, The Regional Transport Officer, Dindigul] wherein the Division Bench held as follows:

"...

10.Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1) under which the case of the appellant would fall.

11.The respondent has, in the impugned order, preconcluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor Vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind."

5.As already stated, since the respondent has imposed the punishment suspending the licence for three months, even prior to the completion of trial against the petitioner in the Criminal case registered against him, the ratio laid down by the Division Bench of this Court in the above referred judgment squarely applies to the facts and circumstances of the present case.

6.Following the ratio laid down by the Division Bench in the judgment reported in 2010 Writ L.R. 100 [P.Sethuram V. The Licensing Authority, The Regional Transport Officer, Dindigul] the impugned order dated 17.07.2017 passed by the respondent is liable to be set aside. Accordingly, the same is set aside. The respondent is directed to return the Driving License of the petitioner within a week's time from the date of receipt of a copy of this order. However, it shall not preclude the respondents from initiating any action, if any of the contingencies specified in Motor Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government, in pursuance of the provisions of the Act, are violated.

7.With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

va

To

The Regional Transport Authority/Licensing Authority,
Office of the Regional Transport Authority,
Coimbatore (North),
Kovaipudur, Coimbatore - 641 042.

+1cc to M/s.V.Ajoykhose Advocate, S.R.No.54114
+1cc to the Government Pleader, S.R.No.54582

W.P.No.19431 of 2017
and W.M.P.Nos.20954 & 20955 of 2017

AR(CS V)
CU(02/08/2017)



WEB COPY