

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2017

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.1946 of 2017

P.Saravanan

... Petitioner

Vs.

1 The Regional Transport Officer
Alandur, Chennai – 16.

2 The Inspector of Police
St. Thomas Mount Police Station,
Traffic Investigation Wing,
St. Thomas Mount, Chennai – 16.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent herein to return the petitioner's Driving Licence bearing DL. No. TN-36-20040001840 forthwith.

For Petitioner : Mr.A.Ganesan
For Respondent : Mr.R.Venkatesh
Government Advocate

O R D E R

1.Issue Notice. Mr.R.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents. With the consent of learned counsels for parties, the writ petition is taken up for final

hearing and disposal.

2.The only relief that the petitioner seeks via this writ petition is for issuance of a direction to the first respondent to return his Driving Licence bearing DL.No.TN-36-20040001840.

3.The record shows that the petitioner at the relevant time was employed as Driver with the Tamil Nadu State Transport, Kovai Division, Erode Region, Kasipalayam E-3 Branch. On the fateful day i.e., 18.12.2016, the petitioner was, evidently, driving a bus bearing Registration No.TN-33-N-3079. The said bus on the said date i.e., 18.12.2016, met with an accident at 6.00 hours near Alandur Metro Rail (Kathipara Station). It is averred, by the petitioner that in the accident, a person suffered fatal injuries and consequently, died on the spot.

4.The petitioner further concedes that as a result of this accident, a criminal case was registered against him under Sections 279 and 337 of the IPC.

4.1.To be noted, the case registered against the petitioner is reflected in Crime No.626/2016.

5.It is the stand of the petitioner that he was arrested, and thereafter, released on bail. It is stated by the petitioner that the criminal case lodged against him is pending consideration of the concerned Court.

6.The petitioner is presently aggrieved by the fact that on that date, his driving licence was seized and was handed over to the first respondent which has not been returned till date.

7.Furthermore, the petitioner claims that he has preferred a representation dated 10.01.2017 with the first respondent for return of his driving licence. Petitioner claims that there has been no movement in the matter and that the driving licence remains in the custody of the first respondent.

8.It is the petitioner's case that till the petitioner is convicted in the criminal case, the first respondent cannot continue to retain custody over his driving licence.

9.I may note that a similar issue arose before me in W.P.No.43182 of 2016. The said writ petition was disposed of by me,

vide, order dated 12.12.2016. For the sake of convenience, the observations made therein are set out hereafter:

"6. Based on the aforesaid facts, the petitioner's counsel argues that the second respondent has no authority to seize the petitioner's driving licence prior to a finding of conviction being returned, by the concerned criminal court. In support of his submissions, learned counsel for the petitioner relies upon the following judgments:

- i. P.Sethuram vs. The Licensing Authority, The Regional Transport Officer, Dindigul (Madurai Bench), 2010 Writ L.R. 100;*
- ii. G.Jayaprakash vs. The Secretary to Government & Others, 2010 Writ L.R. 104;*
- iii. R.Ravi vs. The Regional Transport Officer, Transport Department, Chennai, 2015 (2) CTC 626;*
- iv. Order in W.P.No.23179 of 2016 (between M.Rathinakumar and The Inspector of Police, Traffic Investigating Wing and Another) decided on 12.07.2016.*

6. On the other hand, learned counsel for the respondents says that the second respondent has the power to revoke the licence pursuant to powers conferred in that behalf under Section 19 of the Motor Vehicles Act, 1988 (in short, the 1988 Act).

7. I have heard the learned counsel for the parties. According to me, while there is no doubt that the second respondent would have the power to revoke the licence or even disqualify the licence holder from holding a driving licence, that power can be exercised only if the provisions of the said section are scrupulously followed.

8.1. The second respondent, inter alia, is required to issue in the first instance a show cause notice. The show cause notice, in turn, should necessarily advert to the clause or clauses of sub-section (1) of Section 19 which are proposed to be triggered against the noticee. The noticee is required to be given an opportunity to present his case, and, only thereafter, can any punitive orders be passed against the noticee, i.e. holder of the driving licence.

6.2. The mere pendency of a criminal case, which may, in given circumstances, lead

an acquittal, is not a good enough reason to seize the driving licence pending trial in the criminal case. Therefore, the power that the second respondent seeks to exercise under Section 19 of the Motor Vehicles Act, 1988, has to be exercised in consonance with the provisions of the said section and other appurtenant powers conferred under the 1988 Act and Rules framed thereunder.

7. Accordingly, the writ petition is disposed of with the direction to the second respondent to dispose of the representation of the petitioner dated 02.11.2016. While doing so, the second respondent will bear in mind the provisions of the 1988 Act and the judgments of this Court to which reference has been made hereinabove."

10. Having regard to the observations made in the aforementioned judgment, I am inclined to dispose of this writ petition as well with the direction to the first respondent to deal with the representation of the petitioner dated 10.01.2017. It is made clear that while dealing with the representation of the petitioner, the first respondent will bear in mind the provisions of the Motor Vehicles Act, 1988 and the judgments of this Court referred to in the order dated 12.12.2016, passed in W.P.No.43182 of 2016.

11. Needless to say, the first respondent will act with due expedition, and, conclude the aforesaid exercise, at the earliest, though, not later than six (6) weeks from the receipt of a copy of the order. No costs.

27.01.2017

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Index: Yes/ No

Internet: Yes/ No

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RAJIV SHAKDHER, J.
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