

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.39681 of 2016

Iyyappan

... Petitioner

vs.

1.The Licensing Authority  
Regional Transport Office  
Madhuranthagam  
Chengalpattu District.

2.The Inspector of Police  
Traffic Investigation Wing  
G5 Sunambed police station  
Kancheepuram District.

3.The General Manager  
Tamilnadu State Transport Corporation Ltd.,  
Villupuram Kottam  
Villupuram District.  
Respondents

...

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus directing the respondents 1 and 2 to return the driving license of the petitioner forthwith to the petitioner as enable to join the duty before the third respondent.

For Petitioner : No appearance

For R1 and R2 : Mr.Akhil Akbar Ali  
Govt. Advocate

For R3 : Mr.P.Kanhan Kumar

ORDER

1.There is no representation on behalf of the petitioner. The position was no different on the previous date.

2.The only relief that the petitioner seeks in the instant writ petition is that a direction be issued to respondent Nos.1 and 2 to return his driving licence.

3.The averments in the writ petition demonstrate that the petitioner was involved in an accident on 01.11.2016, with a person riding a two wheeler, when he was driving a bus bearing Registration No.TN-32-N-3731, on route No.83A.

3.1 It appears, consequent thereto, an F.I.R. was registered against the petitioner under Sections 279 and 304A of the IPC.

4.The petitioner claims that the police authorities seized his license and handed over the same to respondent No.1.

4.1 It is, in these circumstances, the petitioner has approached this Court seeking the relief, to which, I have made, a reference above.

5. I had dealt with the similar issue, which arose in W.P.No.43182 of 2016 and the said writ petition was disposed of vide order dated 12.12.2016. The operative directions, contained in the said order, are set forth below for the sake of convenience:

"6.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.

6.1.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.

8. Needless to say, the second respondent will act with due expedition and, thus, conclude the aforesaid exercise not later than four (4) weeks from the date of receipt of a copy of the order."

6. Accordingly, the captioned writ petition is disposed of with the direction to respondent No.1 to treat the captioned writ petition as a representation and dispose of the same in line with the directions contained in order dated 12.12.2016, passed in W.P.No.43182 of 2016. There shall, however, be no order as to costs.

Sd/-  
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Licensing Authority,  
Regional Transport Office,  
Madhuranthagam, Chengalpattu district.
2. The Inspector of Police,  
Traffic Investigation wing,  
Gs, Sunambad Police Station, Kancheepuram District.
3. The General Manager,  
T.N.State Transport Corporation ltd.  
Villupuram Kottum, Villupuram District.

Copy to

Mr.Iyappan,  
No.92, Kalyana Sundaram Nagar  
T.Kumarapuram, Thorrapatta.  
Cuddalore-607 109.

+1cc to M/s.T.Sudha, Advocate SR.No.2543  
+1cc to M/s.P.Kannan Kumar Advocate SR.No.3204  
+1cc to the Government Pleader SR.no.3061.

W.P.No.39681 of 2016

PSK(CO)  
GN(03/01/2017)