



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 31.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P (MD) No.16821 of 2017

S.Prasad

... Petitioner

vs.

The Regional Transport Officer,
Office of the Regional Transport Office,
Tuticorin.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the Respondent to return the Driving License bearing No.TN69Z1998 0000560/98 (LMV) dated 07.04.1998 valid till 09.08.2029 and HTV dated 03.05.2000 valid till 04.03.2019 respectively on the basis of the Petitioner's representation dated 09.03.2017.

For Petitioner : Mr.R.Murugan

For Respondent : Mr.S.Sathish Kumar
Additional Government Pleader

ORDER

Heard Mr.R.Murugan, learned counsel appearing for the petitioner and Mr.S.Sathish Kumar, learned Additional Government Pleader appearing for the respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.The petitioner, who was appointed as a driver on temporary basis in Tamil Nadu State Transport Corporation had driven the bus, which involved in an accident that had taken at Pudur Bus Stand, Vilathikulam on 20.01.2017. As a consequence thereto, his driving licence bearing No.TN69Z1998 0000560/98 (LMV) dated 07.04.1998 was impounded by the respondent. It is claimed by the petitioner that despite his representation dated 09.03.2017, for returning the driving licence followed by repeated reminders, the same has not been returned to him. Hence, the present writ petition is filed seeking return of the said driving licence on the basis of his aforesaid representation dated 09.03.2017.



3. Learned counsel for the petitioner in support of the aforesaid relief claimed in the writ petition relied upon the judgment of the Division Bench of this Court in **P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul** reported in **2010 Writ L.R. 100**, in which after referring to the relevant statutory provisions governing the issue, it has been held as follows:

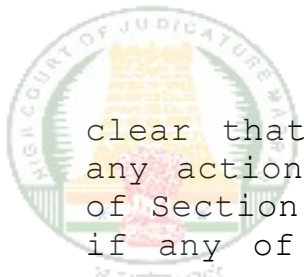
"8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a driving licence, if any of the contingencies prescribed in Clauses (a) to (h) of Sub Section (1) of Section 19 arises. Moreover, the power under Section 19(1) can be invoked only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.

9. But in the case on hand, the licence of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19(1) of the Act, after getting a report from the police. Therefore the impounding of the licence has actually preceded the issue of show cause notice.

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."

4. In the light of the aforesaid binding dictum laid down, the Writ Petition is allowed and the respondent is directed to return the driving licence of the petitioner within 10 days from the date of production of certified copy of this order. However, it is made



clear that it shall not preclude the respondent from initiating any action, if any contingencies specified in Clauses (a) to (h) of Section 19(1) of the Motor Vehicles Act, 1988, arises later, or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated. No costs.

WEB COPY

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Regional Transport Officer,
Office of the Regional Transport Office,
Tuticorin.

+ 1 cc TO Mr.R.Murugan , Advocate in SR No. 84506
+1cc to The Special Government Pleader in SR.No.85073

sj
AE/SV MMS/SAR2/17.11.2017/3P/4C

order in
W.P(MD)No.16821 of 2017
31.10.2017