



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2017

CORAM

THE HON'BLE Mr. JUSTICE R. SURESH KUMAR

W.P. (MD) No.2782 of 2017

WEB COPY

A.Venkatesan

.. Petitioner

-vs-

The Regional Transport Officer,
The Regional Transport Office,
Sankarankovil, Tirunelveli District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondent to return the petitioner driving license bearing D.L.No.TN.69 1992000002314/1/1992 to the petitioner forthwith by considering the petitioner's representation dated 19.12.2016.

For Petitioner	: Mr.B.Ramanathan
For Respondents	: Mr.S.Satheesh Kumar
	Additional Government Pleader

O R D E R

The prayer in the writ petition is for a writ of Mandamus to direct the respondent to return the petitioner's driving license bearing D.L.No.TN.69 1992000002314/1/1992 to the petitioner forthwith by considering the petitioner's representation dated 19.12.2016.

2. Mr.S.Satheeshkumar, Additional Government Pleader, accepts notice for the respondents.

3. By consent of both sides, the writ petition itself is taken up for final disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that the petitioner, while he was riding the bus belonging to the State Transport Corporation, involved in an accident. Pursuant to which, FIR was registered against the petitioner. Parallely, departmental proceedings also was initiated against the petitioner and the petitioner had been suspended from service from 24.11.2016 till 23.12.2016 ie., for a period of one month. Thereafter, the petitioner was sent to take training at Tirunelveli from 24.12.2016 to 22.01.2017. Thereafter, the petitioner was directed to go for another training from 23.01.2017 to 06.02.2017 to Chennai IRT at Gummidipoondi by the Employer Department. Though the petitioner is ready and willing to go for further training as directed by his employer, since his license has already been



impounded and has been kept at the office of the respondent, unless the same is returned to the petitioner, he cannot go for training.

5. The learned counsel for the petitioner, in this regard would rely upon the Division Bench judgment of this Court reported in **2010 WLR 100** in the matter of **P.Sethuram v. the Licensing Authority, the Regional Transport Officer, Dindigul**.

6. In the said judgment, the learned counsel for the petitioner rely upon paragraph Nos.4 and 11 of the judgment, which reads thus:

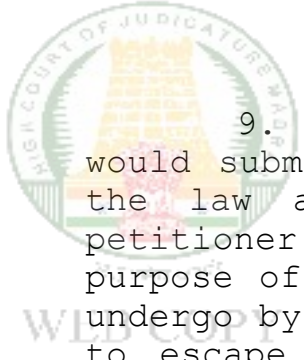
"4. Though there is, in fact, an alternative remedy of appeal available under Section 19(3) of the Act, a fundamental question is raised as to whether the mere registration of a Criminal complaint and the involvement of a driver in a road traffic accident is enough to invoke the power to suspend or revoke a driving licence under the Act. Since a lot of cases of this nature have come up, we deem it fit not to send the appellant to avail the alternative remedy.

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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."

7. By relying upon the said judgment, the learned counsel for the petitioner would submit that merely because an FIR is registered by the concerned police, due to the involvement of motor accident and on that basis, license of the driver cannot be kept idle at the hands of the Regional Transport Officer concerned.

8. Here, in the case in hand, the learned counsel for the petitioner would submit that even though the FIR was registered on 24.11.2016, there is no further progress in the said case and in the meanwhile, now the petitioner's employer has directed the petitioner to go for training at Gummidipoondi. In order to comply the same, the original driving license, which was recovered and impounded by the respondent office, has to be returned to the petitioner.



9. Heard the learned Additional Government Pleader. He would submit that no doubt, the Division Bench judgment had laid the law and in view of the same, for the time being, the petitioner shall be entitled to get back the license for the purpose of completing the training, for which, he was directed to undergo by his employer, but that will not permanently entail him to escape from the clutches of law, as criminal case has been filed against him for the involvement of the accident by registering the FIR, where the investigation is pending.

10. Heard the learned counsel for both sides and the contention raised by them are taken into account.

11. In view of the settled legal position, as has been made in the said Division Bench judgment in 2010 WLR 100 cited supra, the respondent does not have the authority to retain the original driving license of the petitioner, even before conclusion of any criminal case, as the petitioner has not been declared guilty by a competent Court of law. Therefore, the said principle, as has been laid down in the judgment cited supra, can be squarely applied to the present facts of the case and in view of the same, the petitioner shall be entitled to get back his original driving license from the respondent.

12. In the result, the following direction is given in the writ petition:

The respondent, on production of a copy of this order, shall return the original driving license bearing No. D.L.No.TN.69 1992000002314/1/1992 to the petitioner forthwith and on receipt of the same, the petitioner shall report for training, as has been directed by his employer at IRT, Gummidipoondi, immediately, thereafter.

13. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
The Regional Transport Officer,
The Regional Transport Office,
Sankarankovil, Tirunelveli District.
+1cc to Mr.B.Ramanathan, Advocate Sr.No. 8876

RR

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