



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD) No. 7519 of 2017

M.Senthamil Selvan

...Petitioner

-Vs-

The Regional Transport Officer,
The Regional Transport Office, Thanjavur.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ Mandamus directing the respondent to return the driving license of the petitioner bearing D.L.No.TN-22-19930000565 to him forthwith.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.G.Muthukannan
Government Advocate

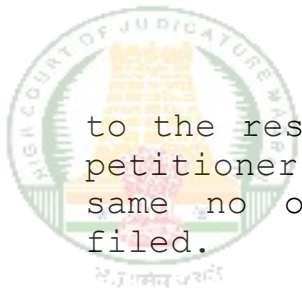
ORDER

This writ petition is filed for directing the respondent to return the driving license of the petitioner bearing D.L.No.TN-22-19930000565 to him forthwith.

2.Mr.Muthukannan, learned Government Advocate takes notice on behalf of the respondent. By consent of both parties the writ petition is taken up for final disposal at the stage of admission itself.

3.The case of the petitioner is that he is working as a Driver in the Tamil Nadu State Transport Corporation (Kumbakonam) Limited from 24.08.2008. On 30.03.2017 when he was proceeding from Thanjavur to Ariyalur, the bus met with an accident, for which, a criminal case under Section 304 (A) of IPC was registered.

4. The petitioner would further claim that he is an innocent and was falsely implicated in the above said criminal case. Pursuant to the registration of the criminal case, the driving licence of the petitioner was seized by the police and handed over



to the respondent. Since the driving licence was not returned the petitioner gave a representation dated 05.04.2017. Despite the same no order was passed, hence, this writ petition has been filed.

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5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

6. The learned counsel for the petitioner would submit that the issue involved in this writ petition is squarely covered by the order of the Division Bench of this Court, reported in W.A. (MD).No.176 of 2009. The Division Bench after considering the relevant provisions of the Motor Vehicles Act, 1988 has held as follows:

"9. 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 revoked only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.

10. But in the case on hand, the licence of the appellant has been impounded or retained by the respondent, immediately after the accident on 18.03.2009. Admittedly, the show cause notice was issued only on 28.04.2009. Therefore, it is clear that the driving licence was retained, both without an order in writing and without affording an opportunity being heard to the appellant. This is a clear violation of the provisions of the Statute and hence the order of the learned Judge, dismissing the writ petition deserves to be set aside.

11. Accordingly, the Writ Appeal is allowed, the order of the learned Judge is set aside and the writ petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not preclude the respondent from proceeding further with the proceedings already initiated, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act has arisen or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1) (f) are violated."

7. In the instant case, it is not in dispute the respondent seized the driving licence of the petitioner straight away without



providing opportunity as mandated in Section 19 (1) of the Act. Keeping in view of the order referred supra, this Court is of the considered view that the petitioner is entitled to get the relief sought for in this writ petition.

8. The respondent is directed to return the driving licence of the petitioner forthwith. Accordingly, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

The Regional Transport Officer,
The Regional Transport Office,
Thanjavur.

+1 cc to Mr.S.Arunachalam , Advocate in SR.No. 71195
+1 cc to The special Government Pleader in SR.No.71272

dsk
AE/SV MMS/SAR1/01.09.2017/3P/4C

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