

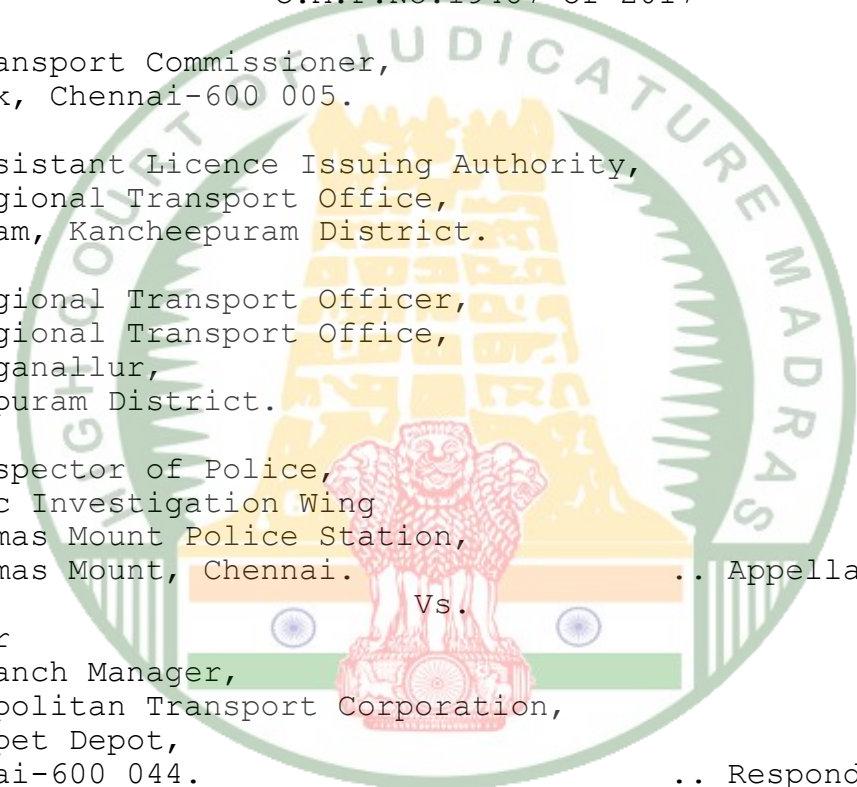
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.A.No.1466 of 2017
and
C.M.P.No.19487 of 2017

- 
1. The Transport Commissioner,
Chepauk, Chennai-600 005.
 2. The Assistant Licence Issuing Authority,
O/o Regional Transport Office,
Tambaram, Kancheepuram District.
 3. The Regional Transport Officer,
O/o Regional Transport Office,
Sholinganallur,
Kanchipuram District.
 4. The Inspector of Police,
Traffic Investigation Wing
St.Thomas Mount Police Station,
St.Thomas Mount, Chennai. ... Appellants
- Vs.
1. R.Sekar
 2. The Branch Manager,
Metropolitan Transport Corporation,
Chrompet Depot,
Chennai-600 044. ... Respondents

Writ Appeal filed Clause 15 of the Letters Patent against the order dated 21.07.2017 passed by learned single Judge in W.P.No.18639 of 2017 on the file of this Court.

Writ Petition No.18639/2017 has been filed under Article 226 of the constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4 to return the Petitioners directing license in D.C. No 01/19870005798 enable him to join and continue his service in the 5th Respondent transport corporation.

For appellants : Mr.A.N.Thambidurai, Spl.G.P.
For respondents : Mr.A.Rajesh Kanna for R-1
No appearance for R-2

JUDGMENT

(The judgment of the Court was delivered by M.Venugopal, J)

Heard the learned Special Government Pleader appearing for the appellants and the learned counsel for the first respondent/writ petitioner.

2. It comes to be known that by the impugned order dated 21.07.2017 passed in W.P.No.18639 of 2017, the learned single Judge has observed the following in paragraphs 3 to 5 and allowed the Writ Petition:

"3. The learned counsel appearing for the petitioner submitted that the issue involved in the present Writ Petition is covered by the decision of this Court reported in 2015 (2) CTC 626 (R.Ravi Vs. The Regional Transport Officer, Transport Department, Chennai-600 078 (Chennai (West))) wherein it has been held as follows:

"Following the ratio laid down by the Division Bench of this Court reported in P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, Dindigul, 2009 (2) TN MAC 252 (DB): 2010 WLR 100, the impugned order passed by the Respondent is liable to be set aside and accordingly, the same is set aside. The Respondent is directed to return the Driving Licence of the petitioner within a week from the date of receipt of a copy of this Order. However, it shall not preclude the Respondent from initiating any action, if any of the contingencies specified in Motor Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government, in pursuance of the provisions of the Act, are violated."

4. Mr.O.Selvam, learned Government Advocate appearing for the respondents also submitted that the issue is covered by the judgment of this Court reported in 2015 (2) CTC 626 (R.Ravi Vs. The Regional Transport Officer, Transport Department, Chennai-600 078 (Chennai (West))) .

5. Having regard to the submissions made by the learned counsel on either side, following the ratio laid down in the said judgment, the 3rd respondent is directed to return the Driving Licence of the petitioner within a week's time from the date of receipt of a copy of this order. However, it shall not preclude the respondents from initiating any action, if any of the contingencies specified in Motor

Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government, in pursuance of the provisions of the Act, are violated."

3. Assailing the legality, validity and correctness of the impugned order, dated 21.07.2017 passed in W.P.No.18639 of 2017 by the learned single Judge, the appellants have preferred the present intra-Court Writ Appeal before this Court by taking a plea that the learned single Judge should have seen that the impounding of the driving licence is made only as per Section 19 (1) of the Motor Vehicles Act, and as such, the impugned order passed by the learned single Judge is liable to be set aside.

4. At this stage, learned Special Government Pleader appearing for the appellants submitted that in the present case, the valuable human life was lost when the passenger was trying to alight/board the bus on the rear side and in fact, the first respondent/writ petitioner moved the vehicle without caring that the passenger was alighting from the bus on the rear side, which ultimately has resulted in the death of the passenger. Therefore, the authorities concerned had seized the driving licence of the first respondent/writ petitioner who is solely held responsible for causing the death of the valuable life of the passenger and the prescribed guidelines in this regard are followed and the first respondent/writ petitioner cannot be permitted to drive the vehicle.

5. Learned Special Government Pleader appearing for the appellants also referred to a Circular issued in Circular No.48/2017 by the Principal Secretary/Road Safety Commissioner, Chepauk, Chennai-05, dated 26.05.2017 in Lr.No.22335/C1/2017, whereby and whereunder, it is observed that all the drivers who are involved in fatal accidents, are directed to undergo a refresher course for atleast two days conducted by the nearest Tamil Nadu State Transport Corporation Training Centre at their own cost and he/she should produce the certificate to that effect. It is further observed in the said Circular that he/she should produce medical fitness certificate from the Government Hospital before requesting for revoking the disqualification of his/her driving licence. As such, the instructions in the aforesaid Circular are to be strictly adhered to by the first respondent/writ petitioner.

6. Further, this Court aptly points out the order passed by one of us, namely S.Vaidyanathan, J, in W.P.No.1588 of 2015, dated 02.02.2015 between A.Kalidoss Vs. The Transport Commissioner, Chepauk, Chennai-600 005 and 4 others, wherein in paragraph 4, there is a reference to the decision of a Division Bench of this Court reported in 2010 Writ L.R. 100 (P.Sethuraman Vs. The Licensing Authority, RTO, Dindigul), and after following the said decision of the Division Bench, the driving licence of the petitioner therein was directed to be returned forthwith.

7. Hence, this Court, on going through the impugned order passed by the learned single Judge and also after looking into the contents of the said Circular, is of the considered view that the learned single Judge's order in paragraphs 4 and 5 takes note of the situation envisaged under the said Circular and as such, the present appeal filed by the appellants, is devoid of merits. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, C.M.P. is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Transport Commissioner,
Chepauk, Chennai-600 005.
2. The Assistant Licence Issuing Authority,
O/o Regional Transport Office,
Tambaram, Kancheepuram District.
3. The Regional Transport Officer,
O/o Regional Transport Office,
Sholinganallur,
Kanchipuram District.
4. The Inspector of Police,
Traffic Investigation Wing
St.Thomas Mount Police Station,
St.Thomas Mount, Chennai.

+1 CC to Mr.A. Rajesh Kanna, Advocate sr 7598.

+1 CC to Govt. Pleader sr 8423, 8739.

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W.A.No.1466 of 2017

SSI(CO)
SP(17/02/2018)