

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.3826 of 2018

P.Sivalingam

.. Petitioner

Vs.

1. The Transport Commissioner,
Chepauk,
Chennai - 600 005.
2. The Assistant License Issuing Authority,
Chennai (West),
No.1, Bharathidasan Colony,
K.K.Nagar,
Chennai - 600 078.
3. The Inspector of Police,
Traffic Investigation Wing,
R4, Pondy Bazaar Police Station,
T.Nagar,
Chennai - 600 017.
4. The Branch Manager,
Metropolitan Transport Corporation,
K.K.Nagar Depot,
Chennai - 600 078.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents 1 to 3 to return the petitioner's driving license in D.L.No.TN09 20000010576 enable him to join and continue his service in the 4th respondent Transport Corporation.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents: Mr.D.Suriyanarayanan,
Additional Government Pleader
for R1 to R3
Mr.P.Kannankumar for R4

O R D E R

Mr.D.Suriyanarayanan, learned Additional Government Pleader takes notice for 1st to 3rd respondents. Mr.P.Kannankumar, learned counsel takes notice for the 4th respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks for a Mandamus, directing the second respondent to return the petitioner's driving license bearing No. TN-09-20000010576.

3. Heard both sides.

4. The petitioner is a driver in the Metropolitan Transport Corporation K.K.Nagar Depot. It is stated that the petitioner's driving licence was seized, in pursuant to an accident taken place on 03.02.2018 and followed by the registration of FIR in Crime No.51 of 2018 under Sections 279 and 337 of IPC. Now, the petitioner seeks for return of the driving licence by contending that the second respondent is not entitled to seize and retain the driving licence, simply because a criminal case is filed against the petitioner and the same is pending.

5. The learned counsel appearing for the petitioner invited the attention of this Court to the Division Bench decision of this Court reported in 2010 Writ L.R. 100 (P.Sethuram vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul) and a single Judge decision made in W.P.No.16958/2013 dated 01.07.2013 reported in 2013 Writ L.R.843 (S.Duraivelu vs. The Regional Transport Officer, West Tambaram, Chennai & 2 others), wherein, this Court has considered a similar issue and found that even the suspension of the license on the ground that a criminal case is pending, is erroneous. I myself followed the above decisions in similar cases, wherein licence was suspended. Hence, I do not think that the second respondent is justified in retaining the driving license of the petitioner.

6. The learned counsel for the petitioner has given an undertaking before this Court that the petitioner is ready and willing to discharge his duties immediately, on receipt of the driving licence.

7. Accordingly, the writ petition is allowed and the respondents are directed to return the driving license of the petitioner immediately on receipt of a copy of this order. However, it shall not preclude the 1st and 2nd respondents from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Motor Vehicles Act,

arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) of the Act, are violated. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Transport Commissioner,
Chepauk,
Chennai - 600 005.
2. The Assistant License Issuing Authority,
Chennai (West),
No.1, Bharathidasan Colony,
K.K.Nagar,
Chennai - 600 078.
3. The Inspector of Police,
Traffic Investigation Wing,
R4, Pondy Bazaar Police Station,
T.Nagar,
Chennai - 600 017.

+ 1 cc to Mr.A. Rajesh Kanna, Advocate SR.13025
+ 1 cc to Mr.P. Kannan Kumar, Advocate Sr.13708

W.P.No.3826 of 2018

EU(23/02/2018)

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