

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.1363 of 2018

Dhanabal.A (Staff No.C25099)

S/o.Aruchamy

Driver Sungam-I Branch of TNSTC Ltd.,

.. Petitioner

versus

1. Inspector of Police
Traffic Investigation Wing (West)
Coimbatore City.

2. The Regional Transport Officer
(Licensing Authority)
Regional Transport Office (Central)
Dr.Balasundaram Road,
Coimbatore - 641 018.

3. The General Manager
Tamil Nadu State Transport Corporation Ltd.,
Regional Office, Coimbatore
37, Mettupalayam Road,
Coimbatore - 641 043.

4. The Deputy Transport Commissioner
Dr.Balasundaram Road,
O/o. The Transport Commissioner
Coimbatore - 641 018.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to impugned Memo No.190/A3/2018 dated 02.01.2018 of the 2nd respondent and quash the same and to direct the 2nd respondent to return the original driving license of the petitioner immediately bearing number TN-41 2005 0001522 without any endorsement.

For Petitioner

: Mr.A.Rajendiran

For Respondents

: Mr.R.Govindasamy,

Special Government Pleader,
for R1, R2 & R4

Mr.P.Kannan Kumar for R3

O R D E R

Mr.R.Govindasamy, learned Special Government Pleader takes notice for the respondents 1, 2 and 4. Mr.P.Kannan Kumar, learned counsel takes notice for R3. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. Though this writ petition is filed challenging the proceedings of the second respondent dated 02.01.2018 and consequently, seeking for returning the original driving license of the petitioner bearing No. TN-41 2005 0001522, this Court is not inclined to interfere with the impugned proceedings dated 02.01.2018, as it is only a notice, calling upon the petitioner to appear for an enquiry under the Motor Vehicles Act, that too, on 12.01.2018. It is stated by the learned counsel for the petitioner that the petitioner has already appeared for the enquiry. Therefore, it is for the second respondent to pass appropriate orders on merits and in accordance with law, with which, this Court is not expressing any view, as of now. However, insofar as the power to retain the driving license is concerned, the same issue has been considered by this Court on very many occasions and hence, this writ petition is being disposed of, only by going into such issue alone.

3. The petitioner is a driver in the respondent Corporation. It is stated that the petitioner's driving licence was seized on 28.12.2017, in pursuant to an accident taken place on 26.12.2017 and followed by the registration of FIR in Crime No.448 of 2017 under Sections 279, 337 and 304(A) of IPC. It is stated that the respondent Corporation has initiated a disciplinary action on the petitioner and kept him under suspension pending enquiry. Therefore, it is contended by the petitioner that the seizure of the license and retaining the same is erroneous merely because the criminal case was registered against the petitioner in respect of an accident. Learned counsel for the petitioner, in support of his contention relied on the decision 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).

4. Learned counsel appearing for the respondents 1, 2 and 4 submitted that the license of the petitioner was seized on 28.12.2017 since an accident had taken place on 26.12.2017, while the petitioner was driving the vehicle.

5. Heard both sides.

6. It is seen that the petitioner's driving license was seized on 28.12.2017, pursuant to the accident that had taken place on 26.12.2017 followed by the registration of the criminal case. It is further seen that the license of the petitioner has not been suspended so far. Even in respect of the cases where the license was suspended, this Court in the above referred cases, has held that the authorities are not entitled to suspend the license merely because the criminal case is registered against the petitioner. Therefore, the petitioner is entitled to get back the license, however, with liberty to the respondents to proceed against the petitioner in accordance with law.

7. Hence, the respondents 1 & 2 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 respondents from proceeding with any action against the petitioner, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Motor Vehicles Act, or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) of the Act, are violated.

8. With the above observation, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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(Licensing Authority)
Regional Transport Office (Central)
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Dr.Balasundaram Road,
O/o. The Transport Commissioner
Coimbatore - 641 018.

+1 cc to Mr.A.Rajendiran Advocate sr 4752
+1 cc to Mr.P.Kannankumar Advocate sr 5633
+1 cc to the Govt Pleader sr 5561

W.P.No.1363 of 2018

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