

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.1602 of 2018

R.Tamilselvan
S/o.K.Raju

.. Petitioner

Vs.

1. Inspector of Police
Azhagapuram Police Station
Azhagapuram, Salem District.

2. The Regional Transport Officer
Kandampatti Bi-Pass
Salem West, Salem District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 2nd respondent herein to return the petitioner's driving licence bearing No.TN-27-V-20030000967 forthwith.

For Petitioner : Mr.A.Ganesan

For Respondents : Mr.B.Anandan

Additional Government Pleader

O R D E R

Mr.B.Anandan, learned Additional Government Pleader takes notice for the respondents. 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-27-V-20030000967.

3. Heard both sides.

4. The petitioner is a driver in the Tamil Nadu State Transport Corporation, Salem Division. It is stated that the petitioner's driving licence was seized, in pursuant to an accident taken place on 09.12.2017 and followed by the registration of FIR in Crime No.408 of 2017 under Sections 279 & 304 A 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. 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 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

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1. The Inspector of Police
Azhagapuram Police Station
Azhagapuram, Salem District.

2. The Regional Transport Officer
Kandampatti Bi-Pass
Salem West, Salem District.

+1 CC to Mr. A.Ganesan, Advocate SR.NO.5760

+1 CC to the Government Advocate SR.NO.6240

W.P.No.1602 of 2018

VC (08/02/2018)