



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
and

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

W.A(MD)No.1084 of 2018
and C.M.P.(MD) No. 7732 of 2018

P.Mahalingam

... Appellant/Appellant

Vs.

The Licensing Officer cum
the Regional Transport Officer,
The Regional Transport Office,
Kumbakonam, Thanjavur - District.

... Respondent/Respondent

PRAYER: The Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 24.07.2018 made in W.P.(MD) No.16094 of 2018.

Prayer in WP(MD)No. 16094/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus calling for the records from the respondent relating to his impugned order dated 10.07.18 passed in Se.Mu.Aa.No.24648/A8/2018, quash the same and consequently direct the Respondent to return the driving license of the petitioner without any remarks.

For Appellant : Mr.S.Arunachalam

For Respondent : Mr. N.Shanmuga Selvam

Additional Government Pleader

JUDGMENT

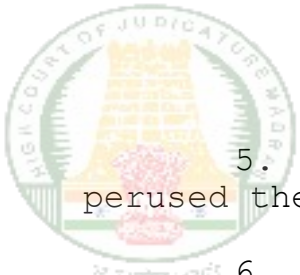
(Judgment of this Court was delivered by M.M. SUNDRESH, J.)

This Writ Appeal has been filed against the order of the learned Single Judge of this Court dated 24.07.2018 made in W.P.(MD) No.16094 of 2018.

2. The writ petitioner is the appellant herein. The order under challenge is one of suspending license on the ground that the appellant has committed accident resulting in death.

3. The learned Single Judge was pleased to set aside the order passed on the ground that both the Show Cause Notice and the impugned order were passed on the same day. The impugned order was passed without giving an opportunity. It was also passed before the Show Cause Notice reaches the appellant.

4. Now the limited scope is to the effect that in view of the order setting aside, the final decision of the respondent is yet to be taken and the respondent will take time to pass a final decision and before that, the license will have to be returned.



5. We have heard the submission made on either side and perused the materials available on record.

6. The learned counsel appearing for the petitioner would submit that nearly 1 ½ months have lapsed since handing over the license in favour of the respondent by the appellant. Even as per the impugned order, the suspension was made for a period of 6 months and the same was set aside. Therefore, instead of remanding back, appropriate orders may be passed by this Court.

7. The learned counsel for the respondent would submit that though no appeal has been preferred against the order of the learned Single Judge setting aside the order suspending the license, the appellant need not be given the license back since the enquiry is pending and final decision is yet to be taken.

8. We are of the view that it would be futile to remand the matter back to the respondent at this stage. Factually more than 1 ½ months have been lapsed. What was proposed to be done is suspension of license. Even admittedly, impugned order was passed without hearing the appellant. That is the reason why the learned Single Judge was pleased to set aside the same and remand it back. Now even assuming that appropriate orders are passed, it would take some more time. During the said time, the suspension would continue since license is in the custody of the respondent.

9. In such view of the matter, we are of the view that it would be appropriate and practical to pass an equitable order without going into the merits of this case by reducing the proposed punishment of suspending the license.

10. In such view of the matter we deem it fit to hold that the respondent shall withhold the license till 30.09.2018. Thereafter, the license will have to be returned to the appellant by the respondent.

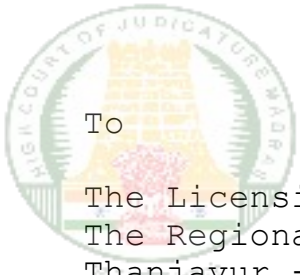
11. In the result, this Writ Appeal stands disposed of. No costs. Consequently, C.M.P.(MD) No.7732 of 2018 is closed.

12. We make it clear that we are not expressing anything on merits with respect to accident whether caused by the appellant or not.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

The Licensing Officer cum the Regional Transport Officer,
The Regional Transport Office, Kumbakonam,
Thanjavur - District

+1CC to Mr.S.Arunachalam, Advocate, SR.No. 78818

+1CC to the Special Government Pleader SR.No.78810

W.A(MD)No.1084 of 2018 and
C.M.P.(MD) No. 7732 of 2018
14.08.2018

CM

ES/SKN/RSK/SAR 4/28.08.2018/3P/4C