



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2018

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THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P. (MD) No. 16026 of 2018

P.Muthupandi

...Petitioner

/Vs./

1.The Licensing Authority,
Regional Transport Office,
Kovilpatty, Thoothukudi District.

2.The Inspector of Police,
Nalattinpudur Police Station,
Thoothukudi District.

3.The Branch Manager, Pudur Branch,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Madurai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to return the driving license of the petitioner forthwith to the petitioner as enable to join the duty before the third respondent.

For Petitioner

: Mr.A.Mu.Sharavanan

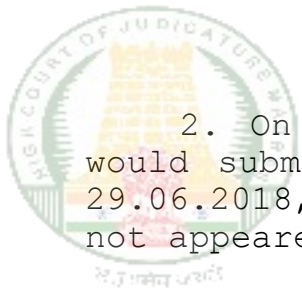
For R-1 & R-2

: Mr.A.Muthu Karuppan

Additional Government Pleader

ORDER

The petitioner is a driver employed by Tamil Nadu State Transport Corporation. On 12.04.2018, while he was driving a bus bearing Registration No.TN 58 N 2278 belonging to the State Transport Corporation from Madurai to Tirunelveli, an accident had taken place at Chattrapatti Village. An FIR was registered against him for the offences punishable under Sections 279, 338 and 304 (A) IPC and his licence was seized by the second respondent. According to the petitioner, he was not negligent and the accident had taken place due to the negligence of the Two Wheeler rider. In view of the seizure of licence, he was unable to join his duty in the third respondent Corporation. Therefore, he made a representation to the first respondent. Yet, no order has been passed. Therefore, the petitioner is before this Court for a direction to return the licence forthwith.



2. On instructions, the learned Additional Government Pleader would submit that a show cause notice in Ku.No.13824/53/18, dated 29.06.2018, was issued to the petitioner. So far, the petitioner has not appeared before the first respondent.

3. Heard the submissions on both sides.

4. It is well settled that unless an order is passed disqualifying a person from driving the vehicle, he shall be permitted to drive the vehicle.

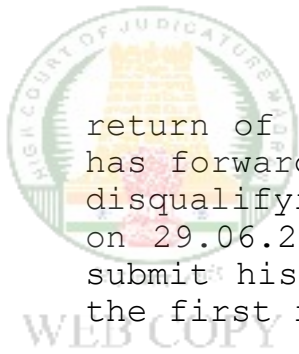
5. It is worthwhile to refer to Sub-Sections (2) and (3) of Section 206 of the Motor Vehicles Act, 1988, which read as under:

"206.(2) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence and the said Court shall on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgement given under Sub-Section (3).

(3) A Police Officer or other person seizing a licence under Sub-Section (2) shall give to the person surrendering the licence a temporary acknowledgement therefor and such acknowledgement shall authorise the holder to drive until the licence has been returned to him or until such date as may be specified by the police officer or other person in the acknowledgement, whichever is earlier."

6. As per Sub-Section (2) of Section 206, the police officer or other person authorised in this behalf by the State Government is empowered to seize the licence held by such driver and forward it to the Court taking cognizance of the offence and the said Court shall on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgement given under Sub-Section (3). As per Sub-Section (3) of Section 206, the police officer shall give to the person surrendering the licence a temporary acknowledgement therefor and such acknowledgement shall authorise the holder to drive until the licence has been returned to him or until such date as may be specified therein.

7. In view of Section 206 of the Motor Vehicles Act, 1988, the second respondent ought to have forwarded the licence to the Jurisdictional Magistrate, before whom, the petitioner can seek



return of licence. But, in the instant case, the second respondent has forwarded the licence to the first respondent for the purpose of disqualifying. The first respondent has issued a show cause notice on 29.06.2018 and directed the petitioner to appear before him and submit his explanation. But the petitioner has not appeared before the first respondent so far.

8. In such circumstances, the following directions are issued:

(i) The petitioner is directed to appear before the first respondent, within fifteen days from the date of receipt of a copy of this order and submit his explanation. The first respondent is directed to afford an opportunity of personal hearing to the petitioner and decide the matter on merits and in accordance with law.

(ii) In the meanwhile, the second respondent is directed to forward the licence to the Jurisdictional Magistrate and the petitioner is entitled to file an application for return of driving licence.

9. The Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (CrI.Side)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1.The Licensing Authority,
Regional Transport Office,
Kovilpatty,
Thoothukudi District.

2.The Inspector of Police,
Nalattinpudur Police Station,
Thoothukudi District.

+1CC to Mr.A.MU.Sharavanan, Advocate in SR.No.75283.
+1CC to Special Government Pleader in SR.No.75646.

SM/SML

DS/SKN-RSK/SAR-1 :01.08.2018: 3P/5C

Order made in
W.P. (MD) No.16026 of 2018
26.07.2018