



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.18393 of 2018

G.Sachu

.. Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Joint Transport Commissioner,
No.16, Abdulkabarkhan Street,
Tallakulam,
Chinnachokkikulam,
Madurai -02.

2.The Licensing Authority /
The Regional Transport Officer,
Madurai (South),
Madurai.

.. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the second respondent to return the petitioner's original Driving License in D.L.No.TN-58-20080000151, within a stipulated time.

For Petitioner : Mr.S.Malaikani
For Respondents : Mr.D.Muruganandham,
Additional Government Pleader

ORDER

The petitioner is working as a teacher in a private school. On 07.12.2017 at 5.45 p.m. while she was riding a two wheeler bearing Registration No.TN-58-R-9441, another two wheeler bearing Registration No.TN-58-AV-3890, which was driven by its rider with pillion in a rash and negligent manner, dashed against the petitioner, in which both the riders as well as the pillion sustained injuries all over the body. While so, one of the persons travelled in the opposite vehicle succumbed to the injuries. In this regard, a case was registered against the petitioner Cr.No.97 of 2017 under Sections 279, 337 and 304-A I.P.C. Subsequently, the second respondent seized the original driving licence of the petitioner and suspended it for a period between 30.12.2018 and 29.03.2018. The petitioner made a representation, dated 04.01.2018, to the respondents for return of the original driving licence. Since the second respondent has not returned the licence, the petitioner is before this Court.



2. Heard the learned counsel appearing for both sides.

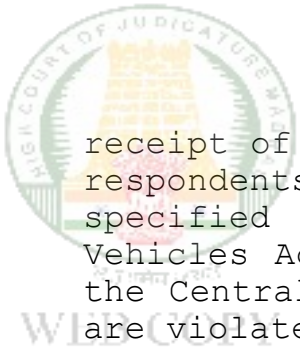
3. When the similar issue came up for consideration, a learned Single Judge of this Court has held in the decision reported in 2018 (1) TLNJ 181 (Criminal) (M.Ravi Vs. The Transport Commissioner, Chepauk, Chennai) as follows:

"4. The petitioner is a driver in the Metropolitan Transport Corporation, Chennai. It is stated that the petitioner's driving licence was seized, in pursuant to an accident taken place on 09.01.2018 and followed by the registration of FIR in Crime No.4 of 2018 under Section 304(A) of IPC and Section 184 of the Motor Vehicles Act. Now the petitioner seeks for return of the driving licence by contending that the respondents 1 to 4 are 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.Draivelu Vs. the Regional Transport Officer, West Tambaram, Chennai and two 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 respondents 1 to 4 are justified in retaining the driving license of the petitioner.

6. Accordingly, the writ petition is allowed and the respondents 1 to 4 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."

4. The above decision is squarely applicable to this case. Following the same, there shall be a direction to the 2nd respondent 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.

5. This Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar(Crl Side)

/True Copy/

Sub Assistant Registrar(CS I)

gcg

To

1.The Joint Transport Commissioner,
No.16, Abdulkabarkhan Street,
Tallakulam, Chinnachokkikulam, Madurai -02.

2.The Licensing Authority /
The Regional Transport Officer,
Madurai (South), Madurai.

1CC TO MR. S. MALAIKANI, ADVOCATE SR 80313

1CC TO THE SPL GOVT PLEADER SR 80628

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Order made in W.P(MD)No.18393 of 2018
27.08.2018