

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.4770 of 2019

V.Dhanasekaran

...Petitioner

vs.

1.The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.

2.The Licensing Authority cum Motor
Vehicle Inspector,
Regional Transport Office,
Krishnagiri,
Krishnagiri District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the 2nd respondent herein to return the petitioner's original driving license (D.L.No.TN29 19940000760) to the petitioner.

For Petitioner : Mr.Jagadeesan. D

For Respondents : Mr.B.Anand,
Government Advocate

O R D E R

This writ petition has been filed by the petitioner to direct the respondents to return the original driving license impounded by the first respondent police.

2. The learned counsel appearing for the petitioner submits that the petitioner is driver under the Tamil Nadu Transport Corporation bus service. While he was in duty, an accident was occurred, due to which, the first respondent police registered a case in crime No.8 of 2019 against the petitioner under Sections 279, 337 and 304(A) of IPC and copy of the FIR has been forwarded to the concerned Judicial Magistrate Court and the investigation is still pending before the respondent police. The respondent police had seized the original driving license. Even

though representation made to the respondents, the original driving license has not been returned to the petitioner. Hence, the petitioner has filed this writ petition before this Court, seeking direction to the respondents to return the original driving license.

3. The learned counsel appearing for the petitioner relied upon the earlier decision of the Division Bench of this Court in P.SETHURAM VS. THE LICENSING AUTHORITY, THE REGIONAL TRANSPORT OFFICER, DINDUGAL [2010 WRIT L.R. 100], G.JAYAPRAKASH, SECRETARY, MUTHU NAIDU MEMORIAL HIGH SCHOOL, JAKKARPALAYAM, POLLACHI, COIMBATORE 642 202 VS. THE SECRETARY TO GOVERNMENT, EDUCATION DEPARTMENT, FORT ST. GEORGE, CHENNAI 600 009 AND TWO OTHERS [2010 WRIT L.R. 104] AND N.MAYILSAMY VS. THE INSPECTOR OF POLICE, TRAFFIC INVESTIGATING WING, MADUKKARAI POLICE STATION, COIMBATORE AND ANOTHER [W.P.NO.6274 of 2017, dated 20.3.2018]. According to the learned counsel appearing for the petitioner, in the aforesaid decisions, this Court held that Section 19(1) of the Motor Vehicles Act empowers the Licensing Authority to disqualify a person for holding or obtaining any driving license for a specified period or to revoke any such license. Further, it is submitted that the power under Section 19(1) of the Act can be invoked only after providing an opportunity of being heard to the holder of license and for reasons to be recorded in writing. Therefore, the respondent authorities cannot impound or retain driving license immediately after the accident. Therefore, this Court directed the authority concerned to return the original driving license to the petitioner therein.

4. According to the learned Government Advocate appearing on behalf of the respondents, "Licensing Authority means an authority empowered to issue licenses under Chapter II or as the case may be Chapter III as per sub-section 20 of section 2 of Motor Vehicles Act, 1988. "Licensing Authorities means the Regional Transport Officer or the Additional Regional Transport Officer, as the case may be within his jurisdiction, shall be the Licensing Authority for issuing Driving License. The power exercisable by a police officer under the Act shall also be exercisable by an inspecting officer of the Transport Department. As per sub Rule (1) of Rule 3 of Tamil Nadu Motor Vehicle Rules, 1989, the Inspecting Officer of the Transport Department not below the rank of Motor Vehicle Inspector Grade II and Section 206 of Motor Vehicles Act, 1988 empowers the police officials to impound the documents. It is further submitted that Section 206(1) empowers any police officers or other persons authorized by the State Government to impound the driving licenses, permits, Certification of Registration, Certificate of Insurance, other documents produced before him by the driver of person incharge of a motor vehicle within the meaning of said section. If the driver of the vehicle has

produced a false documents within the meaning of section 464 of IPC shall seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle such mark or document. Section 206(3) of Motor Vehicles Act, 1988 stipulates that a Police Officer or other person surrendering the license, a temporary acknowledgment therefor and such acknowledgment shall authorize the holder to drive the vehicle until the license has been returned to him or until such date as may be specified by the Police Officer or any other person in the acknowledgment whoever is earlier.

5. The learned Government Advocate would submit that provision under Section 206 of Motor Vehicles Act was not brought to the notice of this Court while earlier order has been passed, either before the Division Bench or before the Single Judge of this Court. According to the learned Government Advocate, Section 19(1) of Motor Vehicles Act empowers the Licensing Authority to disqualify a person for holding or obtaining any driving license for a specified period or to revoke any such license. It is submitted that the order of disqualification shall be issued by the Licensing Authorities in the formats of proceedings by the Licensing Authorities. The copy of the proceedings will be marked to the Police Officer concerned, requesting him to withdraw the authorization issued during the issue of temporary acknowledgment. It is further submitted that the disqualification period shall be as stipulated under the Motor Vehicle Act. The disqualification of the driving license can be challenged by way of appeal before the Appellate Authority under provisions of the Act.

6. Now, in the instant case on hand, a criminal case has been registered and the same is pending before the Judicial Magistrate concerned. As per Section 206 of Motor Vehicles Act, the first respondent police can impound the driving license. The aforesaid provision has not been placed before this Court, while passing the earlier orders, relied upon by the learned counsel for the petitioner. It is further submitted that pending criminal case, the petitioner is entitled to get temporary acknowledgment to drive the vehicle under Section 206 of the Motor Vehicles Act. The learned counsel appearing for the petitioner fairly conceded that provision under Section 206 of the Motor Vehicles Act has not been brought to the notice of this Court in the decision relied on by the petitioner. According to the petitioner, Section 206 of Motor Vehicles Act also empowers the authority to issue the temporary acknowledgment. Therefore, the writ petitioner can approach the authority to seek temporary acknowledgment under Section 206 of the Motor Vehicles Act.

7. In the light of the submissions made by the parties, both the parties agreed to pass the following order:

i) The petitioner is permitted to make an application to the Regional Transport Officer concerned, within a period of one week from the date of receipt of a copy of this order.

ii) If any such application is received, the Regional Transport Officer concerned shall consider such application and pass appropriate orders for issuing temporary acknowledgment as per Section 206(3) of Motor Vehicles Act within a period of one week thereafter.

iii) It is made clear that such application will be considered only on receipt of the original driving license from the concerned Station House Officer.

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

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.

2.The Licensing Authority cum Motor
Vehicle Inspector,
Regional Transport Office,
Krishnagiri,
Krishnagiri District.

+1cc to Mr.D.Jagadeesan, Advocate, S.R.No.24608
+1cc to the Government Pleader, S.R.No.25736

W.P.No.4770 of 2019

Kak(19/03/2019)