

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.15618 of 2019

K.James

... Petitioner

Versus

1.The Regional Transport Officer,
Poonamallee Regional Transport Office,
No.6943, 1st Floor Bye Pass Road,
Seneerkuppam,
Poonamallee, Chennai-600 056.

2.The Inspector of Police,
Traffic Investigation Team (TIW)
Poonamallee, Chennai-600 056.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Mandamus to direct the first respondent to return the petitioner's original driving license bearing No.TN27Z19920000934 within time stipulated.

For Petitioner : Mr.Subburaj.R

For Respondents : Mr.D.Suryanarayan
Addl. Government Pleader.

सत्यमेव जयते
O R D E R

The petitioner herein is a driver in the Tamil Nadu State Transport Corporation Ltd., Kallakurichy Depot-1, Villupuram Division.

2. On 17.04.2019, the bus which was driven by the petitioner met with an accident, in which three persons were injured and one died. A criminal case has been registered and the same is pending for investigation. Meanwhile, the second respondent herein recovered his original driving licence and handed over to the first respondent. The first respondent in turn has suspended his driving license.

3. It is contended by the petitioner herein that the first respondent has no right or authority to impound or cancel the driving license based on the criminal complaint registered by the second respondent. Therefore, seeks writ of mandamus to return his driving license.

4. Whereas, the learned Government Advocate for the first respondent would submit that the petitioner was involved in a Motor Accident and due to his rash and negligent driving, one person died and three got injured. Pursuant to that, a show cause notice was issued to the petitioner to give his explanation as to why the driving license should not be cancelled. The said notice returned un-served with an endorsement "no such addressee". Therefore, the enquiry was conducted and based on the material, impugned order was passed suspending the driving license of the petitioner.

5. Whereas, the learned counsel appearing for the petitioner would submit that on 23.05.2019, he gave a detailed explanation to the first respondent explaining the fact that the accident was not due to rash and negligent driving. However, the said representation was not considered by the first respondent.

6. It is from the submissions of the learned Government Advocate, this Court finds that neither the show cause notice nor the impugned order suspending the driving license has been served to him due to change of address. No doubt, the first respondent has the authority to suspend the driving license invoking the power conferred under Section 19(i) of Motor Vehicles Act, 1998. However, such an exercise of power should be in accordance with the procedures established.

7. As far as the present case is concerned due to change of address, the petitioner has not received the show cause notice issued by the first respondent. Further, de hors of the show cause notice, the petitioner has made a representation to the first respondent on 23.05.2019, before the first respondent passed the order of suspending the driving license.

8. In the given facts and circumstances, it is suffice to direct the first respondent to return the driving license to the petitioner herein forthwith with liberty to take proceedings under Section 19(i) of the Motor Vehicles Act and rules against the petitioner herein. While doing so, the first respondent shall follow the procedures contemplated under Section 19(1)(i) of the Act as well as the guidelines issued by the Principal Secretary/Transport Commissioner and Road Safety Commissioner, vide his circular dated 26.11.2008.

9. With this direction, this writ petition is disposed of.
There shall be no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rpl

To

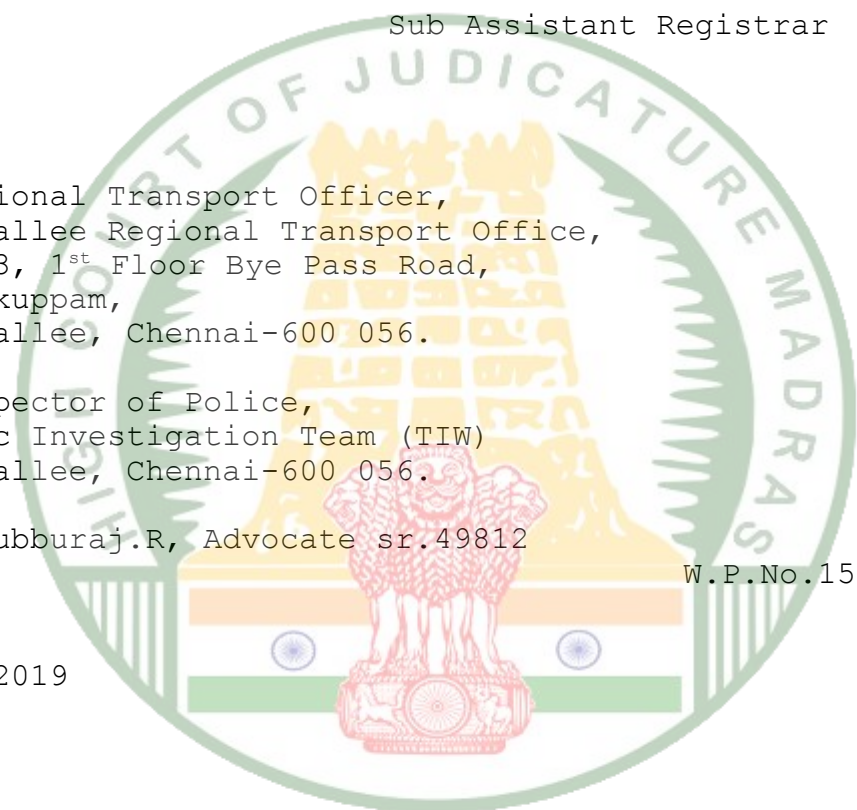
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+1cc Mr.Subburaj.R, Advocate sr.49812

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nr 15/07/2019

The seal of the High Court of Judicature Madras is a circular emblem. It features a central golden temple gopuram (tower) with a lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. The entire emblem is set against a background of a green and white striped border. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed in a circular path around the central emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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