

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:24.07.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.19666 of 2019

V.Boopathy

.. Petitioner

/versus/

1.The Regional Transport Officer,
Tambaram, Chennai 600 045.

2.State by
The Inspector of Police,
S-13, Chrompet Traffic Investigation Wings,
Tambaram, Chennai 600 045. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to return the original driving license of the petitioner bearing No.TN04 1997 0002654.

For Petitioner :Mr.M.Krishnamoorthy

For Respondents :Mrs.P.Rajalakshmi,AGP for R1

O R D E R

The prayer in the writ petition is to issue a Writ of Mandamus directing the first respondent to return the original driving license of the petitioner bearing No.TN04 1997 0002654.

2.The petitioner herein is a Driver of Tamil Nadu State Transport Corporation. On 23.04.2019, while driving transport bus bearing No.TN01N 9855 from Tambaram to Chrompet, he caused an accident hitting a two wheeler. The bike rider died on the spot and other two persons travelling as pillion rider sustained simple injury. A case has been registered against him by the Chrompet Traffic Investigation Wings in Crime No.199/CH3/2019 under Sections 279, 337 of IPC (2 counts) and 304(A) of IPC. On recommendation of the second respondent, the first respondent herein has seized the original driving licence of the petitioner.

3. The contention of the petitioner herein is that the accident did not occur due to his negligence or rashness, but due to the two wheeler rider carrying two persons in his bike as pillion, contrary to Rule. He hit the centre median rash and negligently and fell down on the left side of the road and got crushed under the wheels of the petitioner's bus. Therefore, he has given a representation to the respondent on 12.06.2019 narrating the facts and sought for return of the driving licence. Since there was no response from the first respondent, the present writ petition came to be filed by the petitioner on 04.07.2019.

4. Mrs.P.Rajalakshmi, learned Additional Government Pleader who took notice for the respondents on 16.07.2019 has produced proceedings of the first respondent dated 10.07.2019 suspending the driving licence of the petitioner for a period between 24.04.2019 and 23.10.2019.

5. The learned counsel appearing for the petitioner would submit that the said proceeding was issued without show cause notice to him and without considering the explanation given by him. Further, the learned counsel appearing for the petitioner pointed out that he received two registered covers from the Regional Transport Office on 13.07.2019. One containing the show cause notice dated 25.06.2019 and another the proceedings of the first respondent dated 10.07.2019 and both the covers apparently booked and despatched on 11.07.2019 from Tambaram Head Post Office.

6. On perusing these two covers along with the registration receipts, the first respondent was summoned by this Court to be present before this Court along with file and explain how without ascertaining the service of the show cause notice, he has passed proceedings on 10.07.2019.

7. The learned Additional Government Pleader appearing for the 1st respondent would submit that the show cause notice has not been timely despatched by the Despatched Clerk and without ascertaining the service of notice, the first respondent has passed the impugned order. Even if his explanation though not accepted by the Court, is to be taken for consideration, the first respondent while passing the proceedings ought to have at least considered the explanation given by the petitioner on 12.06.2019 which the office of the first respondent has received on 13.06.2019 as per the acknowledgement card enclosed in the typed set of papers.

8. In the said circumstances, the first respondent is hereby directed to hand over the original driving licence of the petitioner forthwith and proceed if necessary after affording opportunity to the petitioner to explain and pass appropriate orders in accordance with law.

9. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(imp cell)

//True Copy//

Sub Assistant Registrar

ari/rpl

To

1.The Regional Transport Officer,
Tambaram, Chennai 600 045.

2.The Inspector of Police,
S-13, Chrompet Traffic Investigation Wings,
Tambaram, Chennai 600 045.

+1cc to Mr. M.Krishnamoorthy, Advocate SR.No. 63415

A.SK(24/07/2019)

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