

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.09.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.23966 of 2019

M.Yuvaraj,
S/o.Mathappan,
No.8/7, 193, Kumbarapatti K Kottai,
Mettur Taluk, Salem District.

... Petitioner

/versus/

1. Inspector of Police,
Arachalur Police Station,
Erode District.

2. The Licensing Authority-cum- Regional Transport Officer,
Erode East,
Erode District.

... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the 2nd respondent herein to return the Original Driving License (DL.No.TN 27 Y 20030000630) to the petitioner forthwith.

For Petitioner : Mr.K.Hariharan

For R1 & R2 : Mr.N.Inbanathan,
Additional Government Pleader

सत्यमेव जयते
O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Additional Government Pleader for the respondents.

2. The case of the petitioner is that, he is a driver in the Tamil Nadu State Transport Corporation, Coimbatore. On 15.06.2019, while he was on duty, an accident occurred. Pursuant to the accident, the 1st respondent/Inspector of Police, Arachalur Police Station, Erode, has registered a case against the petitioner in Crime No.164 of 2019, under Sections 279 & 304 - A of I.P.C. The Driving License of the petitioner retained by the 1st respondent police has been now forwarded to the 2nd

respondent recommending cancellation of the Driving License. The 2nd respondent is illegally retaining the Original Driving License of the petitioner, contrary to the Judgement of the High Court reported in 2010 WLR page 100. The representation of the petitioner dated 02.07.2019, to return the Original Driving License not been considered by the petitioner herein. Hence, the present Writ Petition.

3. The Learned Additional Government Pleader appearing for the respondents would submit that under Section 19(1)(d) & (f) of the Motor Vehicles Act, 1988, read with Rule 21 of the Central Motor Vehicles Rules, 1989, the 2nd respondent is empowered to cause enquiry and suspend or cancel the Driving License of a erring licensee. Accordingly, after registration of the F.I.R against the petitioner on 15.06.2019 action under Section 19 of Motor Vehicles Act has been contemplated and showcause notice has been issued to the petitioner on 02.08.2019 to explain why action should not be taken against him. Since the petitioner has not given any explanation, final order was passed on 21.08.2019 suspending the Driving License of the petitioner, for a period of 5 months and 29 days between 17.06.2019 to 16.12.2019.

4. The Learned Counsel for the petitioner would submit that, no showcause notice was received by the petitioner and no opportunity was afforded to him before passing the order of cancelling the Driving License. It is also submitted that even the proceedings alleged to have been passed on 21.08.2019, not served on him.

5. The Learned Additional Government Pleader appearing for the respondent has produced the file pertaining to the proceedings of the 2nd respondent, wherein, there is no indication that the showcause notice dated 02.08.2019 was served on the petitioner. Similarly, even the copy of the proceedings dated 21.08.2019 also not so far served on the petitioner.

6. It is obvious from the record that the 2nd respondent has passed order without affording any opportunity to the petitioner. Hence, the proceeding are quashed. The 2nd respondent is directed to handover the Original Driving License of the petitioner forthwith to the petitioner and get acknowledgement for the same. If any action is intended to be taken under Section 19 of the Motor Vehicles Act, the 2nd respondent shall do so, only in accordance with Act and Rules and not otherwise. The 2nd respondent is hereby directed to handover the Original Driving Licence of the petitioner in person through special messenger, with a period of 7 days, from today.

7. Accordingly, the Writ Petition is Allowed. No order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

bsm

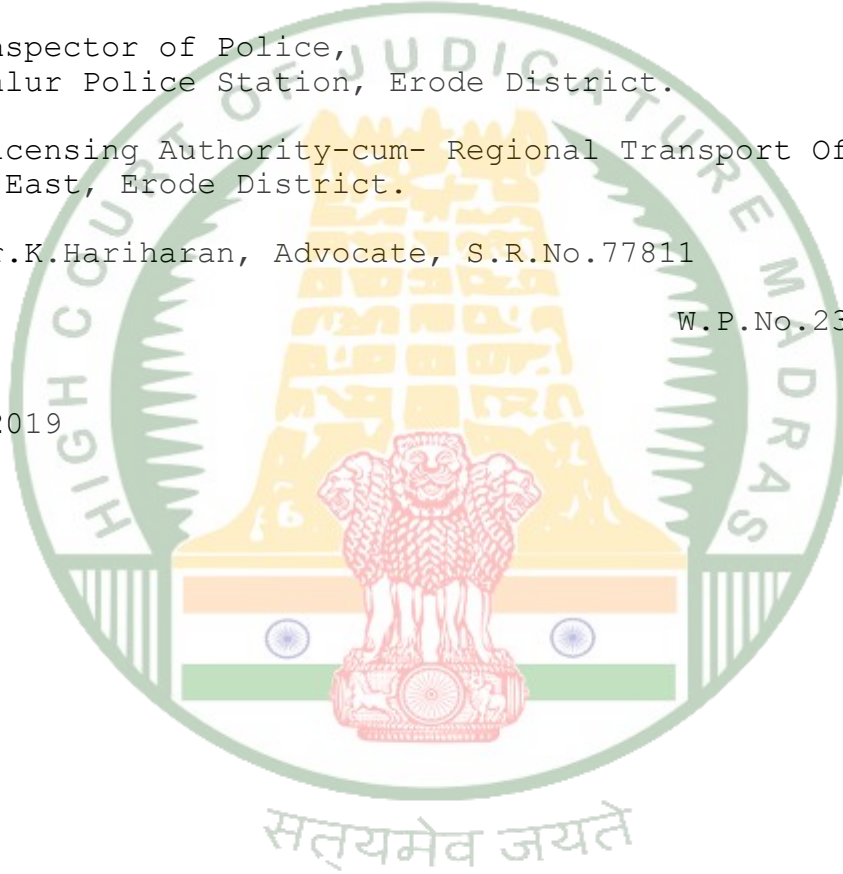
To

1. The Inspector of Police,
Arachalur Police Station, Erode District.
2. The Licensing Authority-cum- Regional Transport Officer,
Erode East, Erode District.

+1cc to Mr.K.Hariharan, Advocate, S.R.No.77811

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BS (CO)
CS/12/09/2019



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