



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2019

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.16086 of 2019

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A.Balasubramanian

... Petitioner

Vs.

1.The Regional Transport Officer,
Office of the Regional Transport Office,
Kovilpatti,
Tuticorin District.

2.The Inspector of Police,
Kadambur Police Station,
Tuticorin District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to return the Driving Licence bearing No.TN69Z19940000603 dated 10.06.1994 valid till 10.07.2021 respectively on the basis of the petitioner's representation dated 12.07.2019 submitted in person to the first respondent and on the basis of the representation submitted to the respondents 1 and 2 through registered post on 16.07.2019.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.S.Angappan,
Government Advocate.

ORDER

The Petitioner prays for issuance of writ of Mandamus directing the respondents to return the driving license of the petitioner bearing No.TN69Z19940000603, forthwith.

2. Heard Mr.R.Murugan, counsel for the petitioner and Mr.S.Angappan, learned Government Advocate for the respondents.

3. The petitioner holds a driving license for heavy passenger transport vehicles since June 1994. He is employed as a Driver in the Tamil Nadu State Transport Corporation (Tirunelveli) Limited, from the year 2011. On 26.06.2019, when the petitioner was driving bus bearing Registration No.TN-67-N-0590 and proceeding near E.B.Bus stop, Kadambur, an accident had occurred. One Parvathi had come under the rear wheel of the bus, sustained injuries and after treatment, had passed away the same day.



4. A case in Crime No.33 of 2019 has been registered against the petitioner before the Kadambur Police Station, Thoothukudi on the ground that the petitioner had caused a road traffic accident resulting in the demise of Parvathi. The bus was called for and produced for inspection.

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5. In spite of his denial of the aforesaid accident, the petitioners' license was seized by the authorities. Hence, the present writ petition praying for a Mandamus directing the respondents to return the driving license.

6. The provisions of Section 19 of the Motor Vehicles Act, 1988, (In short 'Act') empower the licensing authority to disqualify a person holding a driving license or to revoke the same in specified situations. Admittedly, none of the conditions can be said to be attracted to the present case at the present juncture.

7. Section 19 of the Motor Vehicles Acts reads as follows:

Power of licensing authority to disqualify from holding a driving license or revoke such license- (1) If a licensing authority is satisfied, after giving the holder of a driving license an opportunity of being heard, that he -

(a) is a habitual criminal or a habitual drunkard; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(c) is using or has used a motor vehicle in the commission of a cognizable offence; or

(d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public; or

(e) has obtained any driving any driving license or a license to drive a particular class or description of motor vehicle by fraud or misrepresentation; or

(f) has committed any such act which is likely to cause nuisance or danger to the public, as may be prescribed by the Central Government, having regard to the objects of this Act; or

(g) has failed to submit to, or has not passed, the tests referred to in the provision to sub-section (3) of section 22; or

(h) being a person under the age of eighteen years who has been granted a learner's license or a driving license with the consent in writing of the person having the care of the holder of the license and has ceased to be in such care,

it may, reasons to be recorded in writing, make an



order-

(i) disqualifying that person for a specified period for holding or obtaining any driving license to drive all or any classes or descriptions of vehicles specified in the license; or

(ii) revoke any such license.

8. Learned counsel appearing for the respondents was asked to verify with the records and confirm whether any written orders have been passed by the authorities, after hearing the petitioner, suspending the license. He confirms on the basis of oral instructions that proceedings are ongoing for confiscation, but no speaking order has been passed in terms of Section 19(1) of the Act, thus far.

9. In the aforesaid circumstances, I see no justification for seizure of petitioners' license by the authorities, at this stage and such seizure is pre-mature.

10. I also draw support from an order of a Division Bench of this Court in the case of *S.Murugesan vs. the Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Srirangam, Trichy*, in W.A(MD)No.176 of 2009 dated 22.06.2009, wherein, while dealing a similar set of facts, the Bench has directed the return of the original driving license.

11. In the light of the above discussion, I direct the first respondent to return the driving license to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

12. I also clarify that this order will not, in any way, prejudice the initiation of any proceedings by the authorities for cancellation of license, and such proceedings, if any, shall run their own course and be concluded in accordance with law. The petitioner shall also cooperate in the event proceedings are initiated by the authorities and shall appear and cause production of the vehicle concerned, as and when required by the authorities.

13. In fine, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P AND A)

// True Copy //



To

1.The Regional Transport Officer,
Office of the Regional Transport Office,
Kovilpatti,
Tuticorin District.

2.The Inspector of Police,
Kadambur Police Station,
Tuticorin District.

+1 cc Mr.R.MURUGAN ,Advocate, SR.No. 76228
+1cc to M/s.Special Government Pleader,SR.No. 76653

W.P (MD) No.16086 of 2019
19.07.2019

PS (SM)
KK/SAR/25.07.2019/4P-5C