

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2020

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.7315 of 2020

L.Selvam

Petitioner

vs.

1. The Inspector of Police,
Traffic Investigating Wing,
Coimbatore West,
Coimbatore District.

2. The Licensing Authority-cum-
Regional Transport Officer
Coimbatore North,
Coimbatore District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the order Show Cause No.,TN-38/2020/259, dated 21.02.2020 suspending the driving licence of the petitioner for a period of 2 months 29 days (21.02.2020 to 20.05.2020) and to quash the same, consequently direct the 2nd respondent herein to return the original driving licence (DL.No.TN-69 Z 20060002296) to the petitioner forthwith.

For Petitioner : Mr.K.Hariharan

For Respondents: Mr.E.Balamurugan

Special Government Pleader

O R D E R

By consent of both sides, this writ petition is taken up for final disposal.

2. This writ petition has been filed challenging the show cause notice issued by the 2nd respondent dated 21.02.2020 wherein the driving licence of the petitioner was suspended for a period of two months and twenty nine days and consequently, the petitioner is seeking for the return of the original driving licence.

3.Mr.K.Hariharan, learned counsel appearing on behalf of

the petitioner submitted that the 2nd respondent had suspended the licence for a period of two months and twenty nine days and the period itself came to an end on 20.05.2020. The learned counsel submitted that the petitioner was not able to move this writ petition since the Court was not functioning due to the Covid pandemic.

4.The learned counsel further developed his arguments by submitting that an endorsement has been made in the driving licence with regard to the suspension of the licence and this has been made on the ground that the petitioner was involved in an accident and an FIR is pending in Crime No.24 of 2020. The learned counsel submitted that such an endorsement cannot be made in the driving licence and the licence ought not to have been suspended merely on the ground that an FIR is pending investigation. The learned counsel submitted that the issue that is involved in the present writ petition is squarely covered by the earlier judgment of this Court in W.P.No.8188 of 2017, dated 06.04.2017.

5.The learned counsel specifically drew the attention of this Court to the relevant portions of the judgment and the same is extracted hereunder:

8.While considering the objection with regard to the availability of alternative remedy of appeal is concerned, the Division Bench has rejected such contention. The very same decision was followed by the learned single Judge of this Court reported in 2013 Writ L.R.843 (S.Duraivelu vs. The Regional Transport Officer, West Tambaram, Chennai & 2 others) wherein the learned Judge has observed in Paragraph No.4 as follows:

4.The licence of the petitioner was suspended solely on the ground that he was involved in a criminal case under Section 304-A IPC. The criminal case is still pending. The factum of involvement of the petitioner in an offence under Section 304-A of the Indian Penal Code would not give any jurisdiction to the respondent to suspend the license. Therefore, I am of the view that the respondent was not justified in suspending the license of the petitioner.

9.Accordingly, the writ petition is allowed and the impugned order is set aside. However, it shall not preclude the 2nd respondent from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, arises later or if

any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated. No Costs. Consequently, connected miscellaneous petition is closed.

6. Per contra, Mr. E. Balamurgan, learned Special Government Pleader appearing on behalf of the respondents submitted that even if this Court is inclined to interfere with the impugned proceedings of the 2nd respondent, the same should not come in the way of initiating action against the petitioner under Section 19(1) of the Motor Vehicles Act and the concerned Rules.

7. This Court has carefully considered the submissions made on either side and also the materials available on record.

8. The period of suspension has already elapsed on 20.05.2020 and therefore, what remains is only regarding the endorsement that has been made in the original driving licence which is now in the custody of the 2nd respondent. It is clear from the above judgment that a licence cannot be suspended solely on the ground that the petitioner is involved in a criminal case and an investigation is pending. This Court had held that the 2nd respondent will not have the jurisdiction to suspend the licence merely on the ground of the pendency of the investigation in a criminal case. This Court had therefore interfered with the order of suspension by granting liberty to the authority to initiate further action in accordance with law.

9. In view of the above, this writ petition is allowed and the impugned proceedings of the 2nd respondent dated 21.02.2020 is hereby quashed. Consequently, the endorsement made in the original driving licence with regard to the suspension of the licence shall also be removed. It is made abundantly clear that the 2nd respondent is at liberty to initiate action against the petitioner if any of the contingencies specified in Clause (a) to (h) of Section 19(1) of the Motor Vehicles Act arises or if it is found that there is a violation of any of the Rules prescribed by the Central Government. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Inspector of Police,
Traffic Investigating Wing,
Coimbatore West,
Coimbatore District.
2. The Licensing Authority-cum-
Regional Transport Officer
Coimbatore North,
Coimbatore District.

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