

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2020

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.9881 of 2020
and
W.M.P.No.12007 of 2020

M.Krishnamurthy

...Petitioner

Vs.

The Licensing Authority/Regional Transport Officer,
The Office of the Regional Transport Officer,
Kancheepuram.

....Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the respondent dated 10.03.2020 in Se.Mu.No.7005/B2/2020, quash the same and consequently direct the respondent to return the petitioner original driving licence, bearing No.TN 25 19000002182 forthwith, without any endorsement and within a specified time as may be fixed by this Court.

For Petitioner : Mr.V.Ajay Khose
For Respondent : Mr.A.Arul Doss
Government Advocate

सत्यमेव जयते
O R D E R

(The case has been heard through video conference)

This writ petition has been filed challenging the order passed by the respondent on 10.03.2020 suspending the driving licence for the period from 11.02.2020 to 10.08.2020 and for a consequential direction to the respondent to return the original driving licence of the petitioner.

2. The case of the petitioner is that the petitioner is a driver working in the Tamil Nadu State Transport Corporation. The accident took place on 11.02.2020, which resulted in

registration of an F.I.R. in Crime No. 90 of 2020, dated 12.02.2020. The respondent seized the original driving licence of the petitioner and subsequently the impugned order was passed on 10.03.2020 suspending the original driving licence temporarily for a period of 6 months from 11.02.2020 to 10.08.2020. The same has been made a subject matter of challenge in the present writ petition.

3. Mr.V.Ajay Khose, learned counsel appearing on behalf of the petitioner submitted that the issue involved in this writ petition is squarely covered by the Division Bench judgment of this Court in the case of P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer reported in 2010 Writ Law Reporter page 100. The learned counsel specifically relied upon paragraph Nos.8 to 11 of the judgment and the same is extracted hereunder :-

"8.A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any license or disqualify a person for a specified period from holding or obtaining a driving license, if any of the contingencies prescribed in Clauses (a) to (h) of Sub Section (1) of Section 19 arises. Moreover, the power under Section 19(1) can be invoked only after giving an opportunity of being heard to the holder of the license and for reasons to be recorded in writing.

9.But in the case on hand, the license of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19(1) of the Act, after getting a report from the police. Therefore the impounding of the license has actually preceded the issue of show cause notice.

10.Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall.

11.The respondent has, in the impugned order, precluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor Vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving license cannot be taken to be passed after due application of mind"

4. Heard Mr.V.Ajay Khose, learned counsel appearing on behalf of the petitioner and Mr.A.Arul Doss, learned Government Advocate appearing for the respondent.

5. The case in hand is squarely covered by the judgment of the Division Bench that was relied upon by the learned counsel for the petitioner. The respondent can seize the original driving license only if the case falls under Section 19(1) Clauses (a) to (h) of the Motor Vehicles Act. Admittedly, in this case, the criminal case is still under investigation and therefore, the respondent cannot retain the original driving license of the petitioner.

6. In view of the above, the respondent is directed to return the original license of the petitioner within ten days from the date of receipt of a copy of this order. It is made clear that this order will not stand in the way of the respondent from initiating any action, if any of the contingency specified in Clauses (a) to (h) of Section 19(1) of the Act arises or if any of the Rule prescribed by the Central Government in pursuant of Section 19(1)(f) are violated.

7. In the result, the impugned order passed by the respondent is quashed and the writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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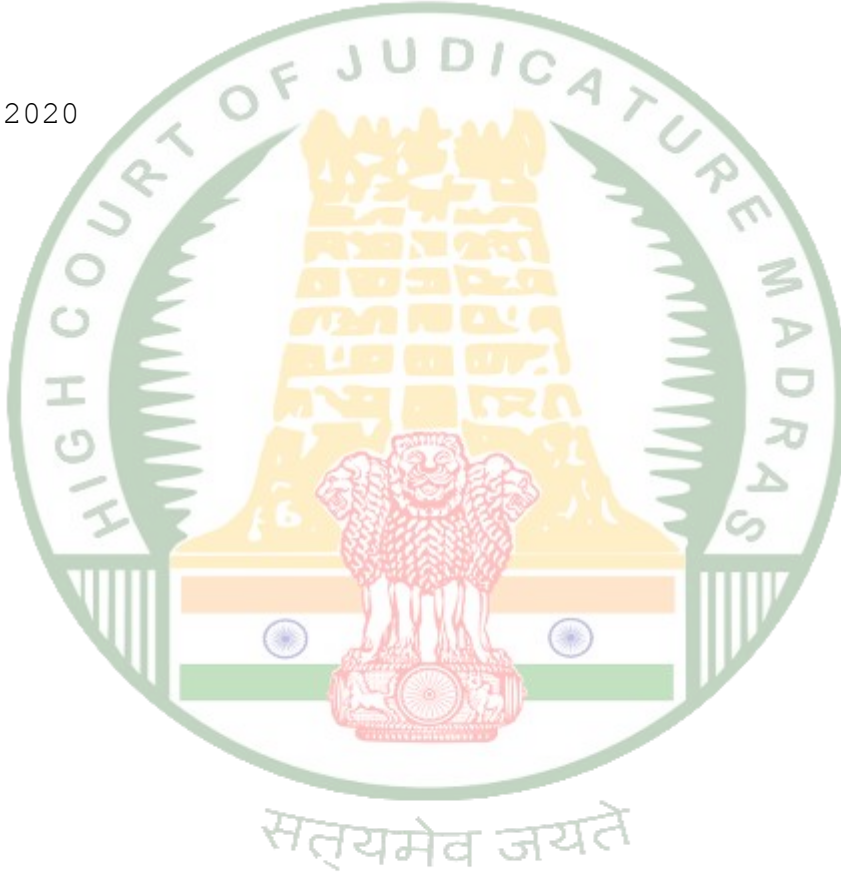
The Licensing Authority/Regional Transport Officer,
The Office of the Regional Transport Officer,
kancheepuram.

+1cc to Government Pleader, S.R.No.25776

+1cc to Mr.V.Ajoy Khose, S.R.No.25549

W.P.No.9881 of 2020 &
W.M.P.No.12007 of 2020

NSA (CO)
KKV/21/08/2020



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