

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.13027 of 2018
and W.M.P.Nos.15306 and 15307 of 2018

V.Lakshmanan,
S/o.Vadivel,
Door No.12/157, A.D. Street,
Kannatheri Kaspas,
Sangagiri Taluk, Salem District. ...Petitioner

vs.

1. The Inspector of Police,
Mallur Police Station,
Salem District.
2. The Regional Transport Officer,
Salem South RTO, Maniyanoor,
Salem District. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari Mandamus, calling for the records relating to the impugned order of the second respondent dated 17.04.2018 in his proceedings No.Che.Mu.Aa.No.01568/E3/2018, quash the same and consequently direct the second respondent to return the driving license of the petitioner bearing No.TN27V 19930001486 which is valid upto 29.03.2022 after removing the endorsement "suspended".

For Petitioner : Mr.R.Srinivasalu

For Respondents : Mr.S.N.Parthasarathi
Government Advocate

O R D E R

This writ petition has been filed challenging the impugned order passed by the 2nd respondent dated 17.04.2018 wherein the driving licence of the petitioner was suspended for a period of six months and consequently, the petitioner is seeking for the return of the original driving licence.

2.Mr.R.Srinivasalu, learned counsel appearing on behalf of the petitioner submitted that the 2nd respondent had suspended the licence for a period of six months and the period itself came to an end on 03.10.2018.

3.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.123 of 2018. 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.

4.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.

5. Per contra, Mr. S. N. Parthasarathi, learned Government Advocate 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.

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

7. The period of suspension has already elapsed on 03.10.2018 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.

8. In view of the above, this writ petition is allowed and the impugned proceedings of the 2nd respondent dated 17.04.2018 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.

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Sd/-
Assistant Registrar(CCC)

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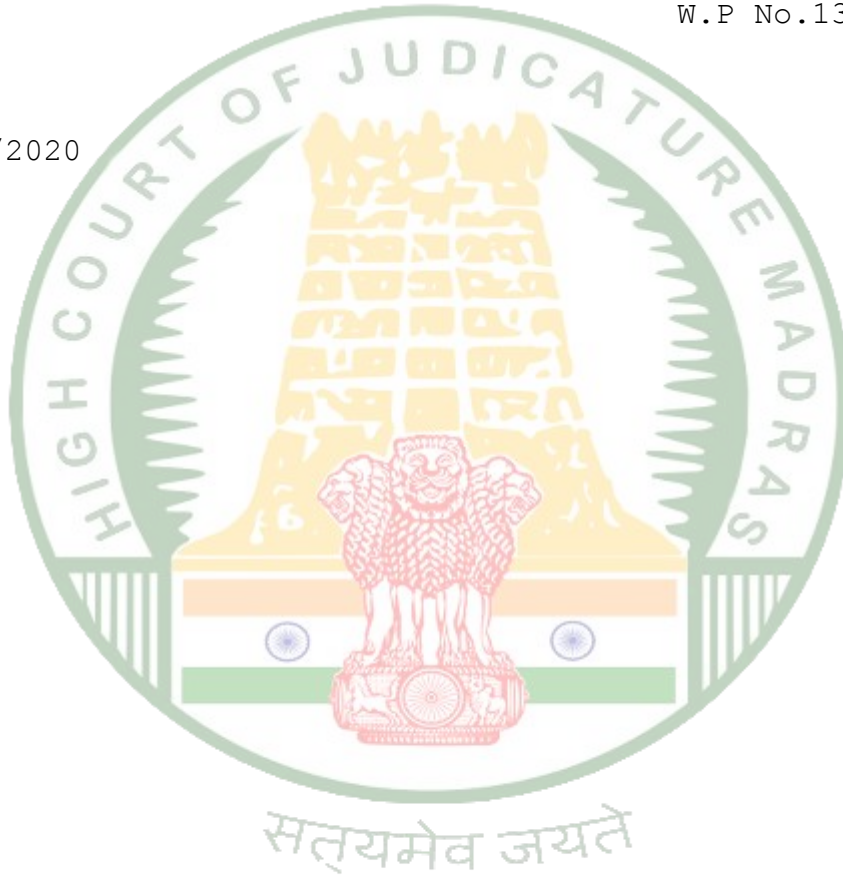
Sub Assistant Registrar

To

1. The Inspector of Police,
Mallur Police Station,
Salem District.
2. The Regional Transport Officer,
Salem South RTO, Maniyanoor,
Salem District.

W.P No.13027 of 2018

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