

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.12.2020

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP.No.18158 of 2020

V.Kumaravelu

.. Petitioner

Versus

1. The Regional Transport Officer
(RTO) (Chennai RTO-South West)
No.47 & 48, Kaliyamman Koil Street,
Sai Nagar, Virugambakkam,
Chennai 600 092.
2. The Inspector of Police,
R-4, Pondy Bazaar, Traffic Investigation
T.Nagar, Chennai 600 017.

.. Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 1st respondent to return the original Driving License No.T.N.09-1988 000 4829 to the petitioner by considering his representation dated 19.11.2020 within the time frame fixed by this Court.

For Petitioner : Mr.R.Ravindran

For Respondents: Mr.Parameswaran,
Govt. Advocate

ORDER

This Writ Petition has been filed for the issue of Writ of Mandamus directing the 1st respondent to return the driving licence belonging to the petitioner based on the representation made by the petitioner on 19.11.2020.

2. Heard Mr.R.Ravindran, learned counsel appearing for the petitioner and Mr.Parameswaran, learned Govt. Advocate, appearing for the respondents.

3. The issue involved in the present case is squarely covered by the earlier order passed by this Court in W.P.No.24796 of 2015 dated 25.8.2015. The relevant portions in the order is extracted hereunder;

"3. The petitioner is employed as a driver in the Tamil Nadu State Transport Corporation, Chennai, holding driving license in TN1020030000890 issued by the respondent. On 02.07.2015, while he was driving a Government bus, proceeding from Kunrathur to Vadapalani, after picking the passenger at Munram Kattalai and proceeding to Vadapalani, on hearing huge alarm from passengers, the bus was stopped and was given to understand that one boy fell down from foot board and he died. Subsequently, a case was registered against the petitioner and the conductor under sections 279 and 304 A IPC in Crime No.683/Ph2/2015 on the file of T 12 (Traffic Investigation), Poonamallee Police and his original driving license was seized. Thereafter, the respondent issued a show cause memo dated 14.07.2015 calling upon the petitioner to show cause why his driving license should not be disqualified. The petitioner submitted his detailed reply by his letter dated 17.07.2015. However, the respondent, without appreciating the reply, suspended the license of the petitioner for six months from 02.07.2015 to 01.01.2016 vide proceedings dated 20.07.2015. It is the grievance of the petitioner, even before the criminal court tries the alleged offence charged against him, the respondent cannot come to the conclusion that he committed cognizable offence. Hence, the petitioner has no other option except to approach this Court by way of filing of this writ petition.

4. In identical circumstances, this Court in W.P.No.27103 of 2014 dated 13.10.2014 (Mani vs. Regional Transport Officer, Erode), has passed the following order:

"6. The issue involved in this Writ Petition is covered by the decision of this Court in a similar writ petition in W.P.(MD) No.16806 of 2013 dated 22.10.2013, wherein this Court has held as follows:

"7. In view of the said conclusion, I hold that the action of the respondent in retaining the license is illegal. At the same time, in the present case,

license was seized by the police, it is for the licensing authority to return the license to the police investigating the criminal case forthwith. On getting the driving license of the petitioner, the investigating officer shall issue acknowledgment, as provided in sub-section 3 of Section 206 of the Motor Vehicles Act and then produce the license before the jurisdictional Magistrate. The jurisdictional Magistrate shall thereafter return the license to the petitioner, as provided in Section 206(1) of the Motor Vehicles Act. On such return of the license to the petitioner, the petitioner shall execute a bond to the satisfaction of the jurisdictional Magistrate undertaking to produce the license, as and when required by the Court.

7. Therefore, this Writ Petition is allowed. The 1st respondent is directed to return the driving license to the Investigation Officer/2nd respondent in Crime No.116 of 2014 on the file of the 2nd respondent, who shall, in turn issue an acknowledgment to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the MV Act and return the license to the petitioner."

5. Hence, in the light of the above, the present Writ Petition is allowed. The respondent is directed to return the driving license, which was seized in respect of Crime No.683/Ph2/2015 on the file of T12 (Traffic Investigation) Poonamallee Police, to the Investigation Officer, who shall, in turn issue an acknowledgment to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the Motor Vehicles Act and return the license to the petitioner. No costs."

4. The petitioner will also be entitled to the same benefit as was granted in the above order of this Court.

5. In view of the above, this Writ Petition is allowed and the 1st respondent is directed to return the Driving Licence to the Investigation Officer which was seized in Crime No.179/2020, on the file of the 2nd respondent. The same shall be produced before the concerned jurisdictional Magistrate Court

and the learned Magistrate in turn, shall exercise powers under Section 206(1) of the Motor Vehicles Act and return the licence to the petitioner. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msr

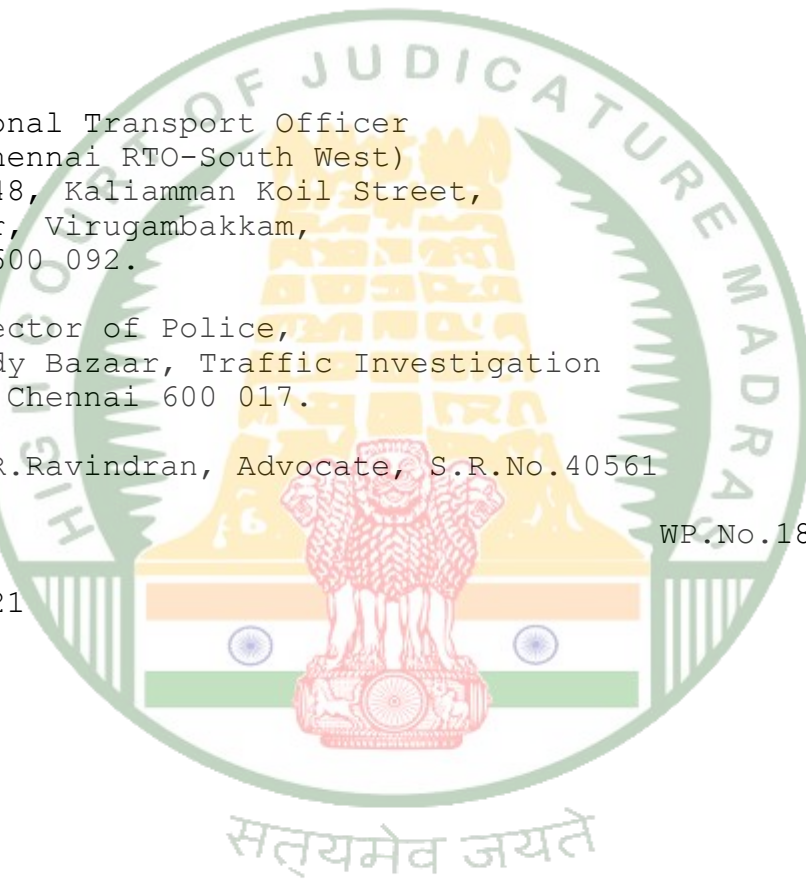
To

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+1cc to Mr.R.Ravindran, Advocate, S.R.No.40561

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EV(CO)
CS/20/01/2021



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