

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.16527 of 2021
and WMP No.17494 of 2021

M.Hariharan

... Petitioner

Vs.

1. Inspector of Police
Sriperumbudur Police Station, Kancheepuram,
District.
- 2 The Licensing Authority Cum -
Regional Transport Officer, Sriperumbudur,
Kancheepuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent made in Show cause No.TN.87 /2021 /186 dated 21/06/2021 suspending the driving license of the petitioner for a period of six months from 18/04/2021 to 17/10/2021 and to quash the same consequently direct the 2nd respondent to return the original driving license (DL No.TN21 19950003025) to the petitioner

forthwith.

For Petitioner : Mr.K.Hariharan

For Respondents : Mr.U.Bharanidharan
Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings of the 2nd respondent dated 21.06.2021 suspending the driving license of the petitioner for a period of six months.

2. The case of the petitioner is that he is a driver working with Tamil Nadu State Transport Corporation at Villupuram. On 18.04.2021, while the petitioner was driving the vehicle, an accident took place as a result of which a two wheeler rider died on the spot. Based on a complaint given, an FIR was registered by the 1st respondent in Crime No.389 of 2021 for an offence under Section 279 & 304-A of IPC. The investigation is still pending. During the course of investigation, the 1st respondent had seized the driving license from

the petitioner. Thereafter, the 1st respondent had handed over the original license to the 2nd respondent and recommended for the cancellation of the driving license. Pursuant to the same, the 2nd respondent has suspended the driving license of the petitioner for a period of six months from 18.04.2021 to 17.10.2021. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Heard the learned counsel appearing for the petitioner and Mr.U.Bharanidharan, learned Government Advocate, appearing on behalf of the respondents.

4. In the considered view of this Court, the issue involved in the present writ petition is squarely covered by the earlier order passed by this Court in WP No.7315 of 2020 dated 01.06.2020. The relevant portions in the order are extracted hereunder :-

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 o 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.

5. This Court while passing the above order had taken into consideration the earlier judgement passed by the Division Bench of this Court in [P.Sethuraman Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Officer, Dindigul] in **2010 Writ Law reporter 100**. The Division Bench in the said judgement had categorically held that where a criminal case is pending investigation, there is no jurisdiction for the respondent to suspend the license. It was also further held that the 2nd respondent can initiate action only if any of the contingencies are satisfied in Clauses (a to h) of Section 19(1) of Motor Vehicles Act. In view of the

same, this Court has to necessarily interfere with the impugned proceedings of the 2nd respondent on the ground of lack of jurisdiction. Even though, the learned counsel for the petitioner has raised a ground to the effect that the impugned proceedings were made even without issuing a show cause notice to the petitioner, this Court does not want to go into that issue since this Court is interfering with the order passed by the 2nd respondent on the ground of jurisdiction.

6. In view of the above discussion, the impugned show cause notice of the 2nd respondent No.TN.87 /2021 /186 dated 21/06/2021 is hereby quashed and there shall be a direction to the 2nd respondent to hand over the original driving license to the petitioner within a period of two weeks from the date of receipt of copy of this order. It is made clear that the 2nd respondent will be at liberty to initiate action against the petitioner if any of the contingencies satisfies clauses (a to h) of Section 19 of the Motor Vehicles Act or if it is found that there is a violation of any of the rules prescribed by the Central Government.

7. This writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

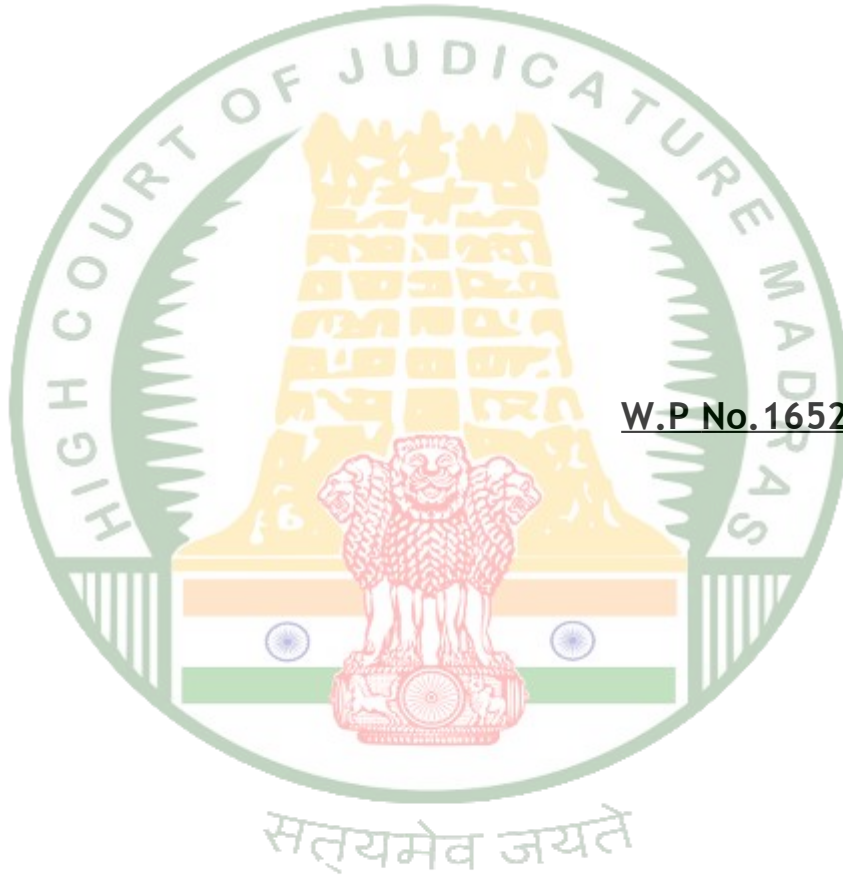
09.08.2021

Internet : Yes/No
Index : Yes/No
Speaking Order/Non-Speaking Order
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To

1. Inspector of Police
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District.
- 2 The Licensing Authority Cum -
Regional Transport Officer, Sriperumbudur,
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N. ANAND VENKATESH,. J.
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