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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.20446 of 2021
and
W.M.P.No.21709 of 2021

V.Mathesu

... Petitioner

-Vs-

1. Inspector of Police
Nangavalli Police Station
Salem District.
2. The Licensing Authority-cum-
Regional Transport Officer
Mettur, Salem District.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for records relating to the order of the 2nd respondent in Show cause No.TN93/ 2021 / 275 dated 19.8.2021 suspending the driving license of the petitioner for a period of 6 months from 19.7.2021 to 18.1.2022 and to quash the same consequently direct the 2nd respondent herein to return the original driving license (DL.No.TN27V 19950001718) to the petitioner forthwith.

For Petitioner : Mr.K.Hariharan

For Respondents : Mr.U.Baranidharan,
Government Advocate

O R D E R

This writ petition has been filed challenging the proceedings of the second respondent dated 19.08.2021 suspending the driving license of the petitioner for a period of six months



and for a consequential direction to the second respondent to return the original driving license to the petitioner.

2. The case of the petitioner is he is a driver in Tamil Nadu State Transport Corporation. On 18.07.2021, while he was on duty, an accident took place, as a result of which the motor cycle rider died. Pursuant to the same, a complaint came to be given and an F.I.R., was lodged in Crime No.254 of 2021 for offences under Section 279 and 304A of I.P.C.

3. In the course of investigation, the police had seized the driving license from the petitioner and it was handed over to the second respondent with a request for cancellation of the license. Thereafter the second respondent sent a show cause notice to the petitioner on 28.07.2021 as to why action should not be taken against the petitioner and to suspend his driving license. The petitioner attended the enquiry and pursuant to the same, the impugned proceedings dated 19.08.2021 came to be issued by the second respondent, whereby the driving license of the petitioner was suspended for a period of six months from 19.07.2021 to 18.01.2022. Aggrieved by the same, the present writ petition has been filed.

4. Heard Mr.K.Hariharan, learned counsel for the petitioner and Mr.U.Baranidharan, learned Government Advocate appearing for the respondents.

5. The issue involved in the present writ petition is squarely covered by the earlier order in W.P.No.16527 of 2021 dated 09.08.2021. The relevant portions in the order is extracted hereunder.

" 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



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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



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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 No.TN93/2021/275 dated 19.08.2021 is hereby quashed and there shall be a direction to the second respondent to return the original driving license (DL No.TN27V 19950001718) to the petitioner within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the second respondent will be at liberty to initiate action against the petitioner if any of the contingencies satisfies clause (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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Inspector of Police
Nangavalli Police Station
Salem District.
2. The Licensing Authority-cum-
Regional Transport Officer
Mettur, Salem District.

W.P.No.20446 of 2021
& WMP No.21709 of 2021

MG(CO)
SU(27/09/2021)