



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.5635 of 2021

and

W.M.P. (MD) Nos.4469, 4470 and 4472 of 2021

B.Thangadurai

... Petitioner

Vs.

1.The Deputy Commissioner of
Transport Department,
Regional Transport Office,
Thanjavur.

2.The Regional Transport Officer
and Licensing Authority,
Nagapattinam.

3.The Inspector of Police,
Karaikal Police Station,
Karaikal District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in Showcause No.TN51/2021/74 dated 08.02.2021, quash the same and consequently to direct the respondents to forthwith return the petitioner's original driving license bearing DL No.TN51-19970000366 to him within a time limit that may be fixed by this Court.

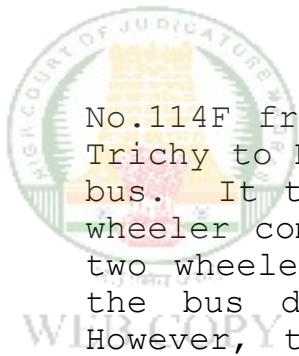
For Petitioner : Mr.Rahul.A

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

Heard the learned counsel on either side. With their consent, the writ petition is taken up for final disposal.

2.The petitioner is employed as a driver in the Tamil Nadu State Transport Corporation (Kumbakonam) Limited. On 14.12.2020, he was driving a bus bearing Registration No.TN 68 N 1108 in Route



No.114F from Karaikal to Trichy. When he was on return trip from Trichy to Karaikal, a two wheeler tried to overtake the petitioner's bus. It then got involved in a head on collision with another two wheeler coming in the opposite direction. The pillion rider of the two wheeler fell in front of the bus driven by the petitioner and the bus driven by the petitioner ran over on her. She died. However, the petitioner made as accused in Crime No.140 of 2020 registered on the file of the third respondent police station for the offences under Sections 279, 337 and 304(A) of I.P.C.

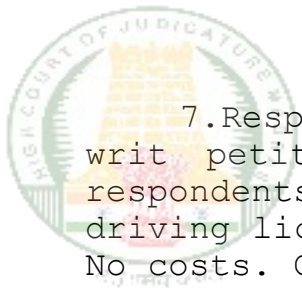
3.The specific case of the petitioner is that he is no way responsible for the unfortunate occurrence and that the very registration of FIR against him is illegal. Be that as it may, a show cause notice was issued on 12.01.2021. The petitioner gave his explanation on 22.01.2021. Even without taking note of the petitioner's explanation, the impugned order came to be passed. As a result, the petitioner's license has been suspended for a period of six months. The same is questioned in this writ petition.

4.The learned Special Government Pleader for the respondents wants this Court to sustain the order impugned in the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. The impugned order is vulnerable on more grounds than one. Though the petitioner had given his explanation and the same was sent by registered post on 22.01.2021, the second respondent has proceeded in the matter as if no explanation was given. That apart when neither the Criminal Court nor the Claims Tribunal have pronounced on the guilt of the petitioner, the second respondent has chosen to prejudge the issue. The petitioner was also not given any opportunity of personal hearing, though it is specifically contemplated by Section 19(1) of the Motor Vehicles Act, 1988.

6.A Hon'ble Division Bench of this Court in the decision reported in 2010 Writ L.R. 100 (P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul) has held as follows:-

"The respondent has, in the impugned order, pre-concluded 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 licence cannot be taken to be passed after due application of mind."



7. Respectfully following the same,, the order impugned in this writ petition is quashed. The writ petition is allowed. The respondents are directed to return the petition mentioned original driving license to the petitioner immediately and without any delay. No costs. Consequently, connected miscellaneous petition are closed.

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Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Deputy Commissioner of
Transport Department,
Regional Transport Office,
Thanjavur.
2. The Regional Transport Officer
and Licensing Authority,
Nagapattinam.
3. The Inspector of Police,
Karaikal Police Station,
Karaikal District.

+1 CC to M/s.A.RAHUL, Advocate (SR-11115[F] dated 15/03/2021)

+1 CC to M/s.SPL GP (SR-11623[F] dated 16/03/2021)

W.P (MD) No.5635 of 2021
15.03.2021

NA (CO)
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