



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.16861 of 2014

and

MP (MD)No.1 of 2014

WEB COPY

K.Vengala Pandi Muni

...Petitioner

-Vs-

1.The Regional Transport Officer,
Tirunelveli Division,
Tirunelveli District.

2.The Deputy Regional Transport Officer,
Tirunelveli Division,
Tirunelveli District.

3.The Regional Transport Officer/Licensing Officer,
The Regional Transport Office,
Tirunelveli Division,
Tirunelveli District.

... Respondents

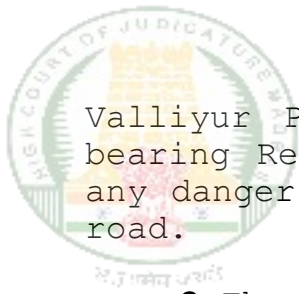
Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 12.08.2014 in Na.Ka.No.1152-A2 2014 issued by the 2nd respondent and quash the same as illegal and thereby forbearing the 3rd respondent from taking any steps in pursuance of the above said order.

For Petitioner : Mr.Chamundi Boase
For M/s. Kara Associates
For Respondents : Mr.D.Ghandiraj
Government Advocate

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 12.08.2014 in Na.Ka.No.1152-A2 2014 issued by the 2nd respondent and quash the same as illegal and thereby forbearing the 3rd respondent from taking any steps in pursuance of the above said order.

2.According to the averments made in the affidavit filed in support of this petition that the petitioner is a lorry driver and on the fateful day, on 29.01.2014, he had taken the load lorry Registration No.TN 60 E 2772 with cotton seeds from Theni and his destination was Thiruvananthapuram. While on the way at about 12.35 a.m. ie. at the midnight at Valliyur, within jurisdiction of



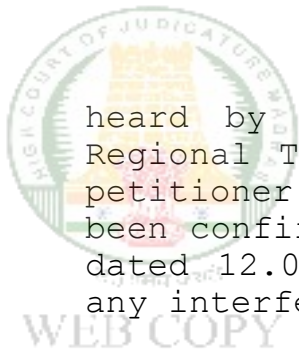
Valliyur Police Station on the highway, there was a tourist bus bearing Registration No.MH 15AK1158 was parked on the road without any danger light indicating that the vehicle has been parked in the road.

3. Therefore, the petitioner who was driving the Lorry could not notice the parking vehicle properly. As a result, there has been an accident as the lorry driven by the petitioner dashed on the standing bus and four passengers, who were standing in front of or nearby the bus for natural call at the wee hours were killed. Pursuant to the said accident taken place on 29.01.2014, a criminal case was registered in the concerned police station against the petitioner for the alleged offences punishable under Sections 279, 337 and 304 A of IPC. Consequently, on the next day, ie., 30.01.2014, the concerned police having seized the driving licence of the petitioner, handed over the same to the Regional Transport authority for further action.

4. Thereafter, the Regional Transport Officer concerned issued a show cause under Section 19 of the Motor Vehicles Act, 1988 and after conducting the enquiry, the Regional Transport Officer decided to impound the driving licence of the petitioner on permanent basis, as against which, an appeal was filed by the petitioner before the second respondent, who after having considered the appeal filed by the petitioner rejected the same through the impugned order dated 12.08.2014. Challenging the same, the present writ petition has been filed.

5. Heard Mr. Chamundi Boase, learned counsel appearing for the petitioner, who would submit that, the petitioner was an innocent as during the wee hours, since the standing bus has not shown any danger light, he could not notice and therefore, suddenly the accident beyond the control of the petitioner had been taken place. Therefore, on that basis if the driving licence of the petitioner has been permanently impounded by the respondent Transport authority, that would have a direct impact on the living of the petitioner. Therefore, the learned counsel for the petitioner would submit that, these aspects since have not been considered while passing the impugned order by the second respondent, who passed the impugned order without assigning the reasons as to why he confirmed the order of the Regional Transport Officer and rejected the appeal, the impugned order is liable to be interfered with, he contended.

6. Heard the learned counsel for the respondents, who, by relying upon the averments made in the counter affidavit would further submit that due to the said accident, four innocent lives were taken away and therefore, it is a fit case that the licence has to be impounded or cancelled on permanent basis, for which a full-fledged enquiry was conducted as contemplated under Section 19 of the Motor Vehicles Act, 1988, after giving an opportunity of being



heard by way of show cause notice the original authority ie., Regional Transport Officer concerned, cancelled the licence of the petitioner or impounded on permanent basis and that order alone has been confirmed by the appellate authority through the impugned order dated 12.08.2014. Therefore, the impugned order does not warrant any interference from this Court, he contended.

7.I have considered the said rival submissions made by both parties and have perused the materials placed before this Court.

8.During the arguments, when a specific question was posed, the learned counsel appearing for the petitioner would submit that, insofar as the criminal case filed against the petitioner is concerned, it is still pending and is yet to be over.

9.In that case, as of now, it cannot be stated that whether the petitioner is innocent or not. Moreover, under Section 19 of the Motor Vehicles Act, 1988, a procedure has been contemplated to conduct an enquiry, after giving an opportunity of being heard to the licence holder and this has been properly adopted by the respondents before passing the cancellation order or impounding order and that alone has been confirmed by the appellate authority. Therefore, this Court feels that no plausible reasons are available to interfere with the impugned order at this stage. Hence, this Writ Petition fails and accordingly, it is liable to be dismissed.

10.But at the same time, if ultimately the criminal case filed and pending against the petitioner before the concerned Court as claimed by the learned counsel appearing for the petitioner, is disposed of, wherein if the guilt of the petitioner has not been proved, on that ground, it is open to the petitioner to make an application to the Regional Transport Officer concerned to revisit the issue, which is concluded through the impugned order and if such an eventuality arises, it is expected that the respondent to revisit the issue and decide the same on merits depending upon the outcome of the criminal case.

11.With these observations, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

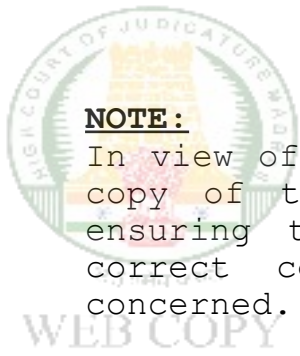
Assistant Registrar (W)

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Sub Assistant Registrar(CS)

SM



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 Regional Transport Officer,
Tirunelveli Division,
Tirunelveli District.
- 2.The Deputy Regional Transport Officer,
Tirunelveli Division,
Tirunelveli District.
- 3.The Regional Transport Officer/Licensing Officer,
The Regional Transport Office,
Tirunelveli Division,
Tirunelveli District.

+1 CC to M/s.SPL. GP (SR-29445[F] dated 17/09/2021)

Order made in

W.P. (MD) No.16861 of 2014

Dated:

16.09.2021

NSN (CO)

GC/UV(09.11.2021) 4P 5C