



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

W.P(MD) No.1211 of 2022

R.Senthilkumar

... Petitioner

Vs.

1.The Regional Transport Officer,
Regional Transport Office (East),
Sanjeevi Nagar, Trichy.

2.Inspector of Police,
Trichy City Traffic Investigation Wing-North
Police Station, Trichy.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the respondents to return the Driving Licence of the petitioner bearing D.L.No.TN 28-20040004591 to the petitioner forthwith.

For Petitioner : Mr.V.R.Arunkumar

For Respondents : Mr.A.Baskaran,
Additional Government Pleader.

O R D E R

Mr.V.R.Arunkumar, learned counsel on record for the sole writ petitioner is before this virtual Court.

2. Learned counsel for writ petitioner submits that the writ petitioner is working as a Driver with the Tamil Nadu State Transport Corporation from 01.02.2017. It is submitted that on 01.01.2022, there was an unfortunate fatal accident, when the writ petitioner was behind the wheel in the course of his duty while driving a public transport bus plying between Trichy Chathiram Bus Stand and Pillur. A First Information Report (FIR) has been registered *inter alia* under sections 279 and 304-A of the Indian Penal Code (IPC) by the second respondent police. This Court is informed that the matter is still at FIR stage.

3. Be that as it may, learned counsel submits that the second respondent had seized the original driving licence of the writ petitioner at the time of the aforementioned accident and the second respondent had handed over the original driving license of the writ petitioner to the first respondent. Be that as it may, the original driving licence of the writ petitioner was also issued to the writ petitioner on 29.09.2004 and it bears 'No.TN28 20040004591' (hereinafter 'said DLR' for the sake of convenience and clarity).



4. Mr.A.Baskaran, learned Additional Government Pleader accepts notice on behalf of both the respondents.

5. There is no disputation or disagreement that the captioned matter is covered by the principle laid down by a Hon'ble Division Bench of this Court in **P.Sethuram VS. The Licensing Authority, The Regional Transport Officer** in **W.A.No.374 of 2009** authored by Hon'ble Justice V.Ramasubramanian (as His Lordship then was) presiding the Hon'ble Division Bench. This judgment is reported in **2010-Writ L.R.100** and this deals with the scope of the power of the first respondent in cases of such nature.

6. Suffice to say that in cases where driving licences have been impounded and retained owing to fatal accident following earlier orders and more particularly, aforementioned P.Sethuram's case principle, I have directed return of driving licence and one such case is **M.Alagarsamy v. The Regional Transport Officer, Regional Transport Office, Karur**, vide W.P(MD).No.20467 of 2021 in which order was made on 16.11.2021 and the same reads as follows:

'Mr.S.Prasanth, learned counsel on record for the sole writ petitioner is before this virtual Court.

2. Learned counsel for writ petitioner submits that the writ petitioner is working as a Driver with the Tamil Nadu State Transport Corporation from 2012. It is submitted that on 08.10.2021, there was an unfortunate fatal accident, when the writ petitioner was behind the wheel in the course of his duty while driving a public transport bus plying between Karur and Dindigul. A First Information Report (FIR) has been registered inter alia under sections 279 and 304-A of the Indian Penal Code (IPC) by the second respondent police. This Court is informed that the matter is still at FIR stage.

3. Be that as it may, learned counsel submits that the second respondent had seized the original driving licence of the writ petitioner at the time of the aforementioned accident and the second respondent had handed over the original driving license of the writ petitioner to the first respondent. Be that as it may, the original driving licence of the writ petitioner was also issued to the writ petitioner on 08.07.1994 and it bears 'No.TN57 1994 0001220' (hereinafter 'said DLR' for the sake of convenience and clarity).

4. Mr.M.Lingadurai, learned Special Government Pleader accepts notice on behalf of both the respondents.

5. There is no disputation or disagreement that



the captioned matter is covered by the principle laid down by a Hon'ble Division Bench of this Court in **P.Sethuram VS. The Licensing Authority, The Regional Transport Officer** in W.A.No.374 of 2009 authored by Hon'ble Justice V.Ramasubramanian (as His Lordship then was) presiding the Hon'ble Division Bench. This judgment is reported in 2010-Writ L.R.100 and this deals with the scope of the power of the first respondent in cases of such nature.

6. There is no disputation or disagreement before this Court that in similar matters prayers have been acceded to and that includes orders dated 30.04.2019 in W.P.No.13570 of 2019 and 10.11.2020 in W.P(MD).No. 15797 of 2020 made by Honourable Predecessor Judges.

7. Learned State counsel submits, on instructions, that the matter is in FIR stage (as already alluded to supra) and prosecution will be pursued. However, there is no disputation qua the aforementioned earlier orders made by Honourable Predecessor Judges and the same having been complied with by the State without carrying the matter in appeal by way of intra-court appeals.

8. In the light of the narrative thus far, this Court is of the considered view that the prayer in the captioned writ petition viz., prayer to return the original driving licence [bearing licence No.TN57 1994 0001220] of the writ petitioner can be acceded to.

9. This Court is informed that the original driving licence i.e., said DLR is now with the first respondent. The first respondent shall take necessary written undertaking, retain photocopies of the original driving licence and return the writ petitioner's aforementioned original driving licence i.e., said DLR to the writ petitioner (under due acknowledgment) as early as possible and in any event within a fortnight from today i.e., on or before 30.11.2021. The writ petitioner shall go over to the office of the first respondent on any working day in the after noon session between 02.00 PM and 04.00 PM and the original driving licence shall be handed over to him under due acknowledgment.

10. It is made clear that the writ petitioner shall produce the original driving licence as and when called for, make himself available for the criminal case to proceed and cooperate with the investigation.



11. Captioned Writ Petition is disposed of in aforesaid manner i.e., with aforementioned directive and there shall be no order as to costs.'

7. There is no disputation that there is no appeal against aforementioned order made in **M.Alagarsamy's** case and similar matters. It appears that the directives have been complied with but that is subject to confirmation. I deem it appropriate to leave it at that. Suffice to say that the mandamus qua the captioned writ petition is also acceded to.

8. Learned State counsel submits, on instructions, that the matter is in FIR stage (as already alluded to supra) and prosecution will be pursued. However, there is no disputation qua the aforementioned earlier orders made by Honourable Predecessor Judges and the same having been complied with by the State without carrying the matter in appeal by way of intra-court appeals.

9. In the light of the narrative thus far, this Court is of the considered view that the prayer in the captioned writ petition viz., prayer to return the original driving licence [bearing licence No.No.TN28 20040004591] of the writ petitioner can be acceded to.

10. This Court is informed that the original driving licence i.e., said DLR is now with the first respondent. The first respondent shall take necessary written undertaking, retain photocopies of the original driving licence and return the writ petitioner's aforementioned original driving licence i.e., said DLR to the writ petitioner (under due acknowledgment) as early as possible and in any event within a fortnight from today i.e., on or before 10.02.2022. The writ petitioner shall go over to the office of the first respondent on any working day in the after noon session between 02.00 PM and 04.00 PM and the original driving licence shall be handed over to him under due acknowledgment.

11. It is made clear that the writ petitioner shall produce the original driving licence as and when called for, make himself available for the criminal case to proceed and cooperate with the investigation.

12. Captioned Writ Petition is disposed of in aforesaid manner i.e., with aforementioned directive and there shall be no order as to costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

pkn

**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,
Regional Transport Office (East),
Sanjeevi Nagar, Trichy.

2.Inspector of Police,
Trichy City Traffic Investigation Wing-North
Police Station, Trichy.

+1 CC to M/s.SPL.GP (SR-2569[F] dated 27/01/2022)

W.P (MD) No.1211 of 2022
25.01.2022

MGJ(01.02.2022) 5P 4C