



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.03.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. (MD) No.5341 of 2022

and

W.M.P. (MD) No.4352 of 2022

P.Mahalingam ... Petitioner
/vs./

1.The Regional Transport Officer and
Licensing Authority,
Kumbakonam.

2.The Inspector of Police,
Thirupanandal Police Station,
Thanjavur District.
Crime No.186 of 2022

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to forthwith return petitioner's original driving license bearing DL No. TN 49 Z 19920001386 to the petitioner within a time limit that may be fixed by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.M.Prakash
Additional Government Pleader

ORDER

The petitioner has filed this writ petition for a Mandamus to direct the respondents to return petitioner's original driving licence bearing DL No. TN 49 Z 19920001386 to the petitioner.

2.The petitioner is an employee of Tamil Nadu State Transport Corporation (Kumbakonam) Limited and that the petitioner on 04.03.2022 had caused death of two persons, while driving the bus belonging to the State Transport Corporation. It is the specific case of the petitioner that the petitioner was driving the bus slowly and suddenly a pig crossed the road from the left side to the right side and in order to avoid hitting the pig, the petitioner applied break and since the road was slippery, the bus hit a TATA Ace van coming from the opposite direction.



3. It is the case of the petitioner that the said TATA Ace van was driven in a rash and negligent manner and therefore, the death and injuries on account of the aforesaid accident were not on account of the petitioner's mistake. It is the further case of the petitioner that the petitioner has been a Driver of the Tamil Nadu State Transport Corporation (Kumbakonam) Limited and had rendered his unblemished service for the last 9 years. It is submitted that the seizure of the licence on 14.03.2022 was contrary to the law laid down by the Division Bench of this Court in the case of **P.Sethuraman Vs. the Licensing Authority** reported in (2010) 2 MLJ 778. A reference was made to paragraph Nos.8 to 11 from the aforesaid judgment, which reads as under:-

"8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a driving licence, if any of the contingencies prescribed in Clauses (a) to (h) of Sub Section (1) of Section 19 arises. Moreover, the power under Section 19(1) can be invoked only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.

9. But in the case on hand, the licence of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19(1) of the Act, after getting a report from the police. Therefore the impounding of the licence has actually preceded the issue of show cause notice.

10. Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall.

11. 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."

4.It is submitted that the respondents ought to have issued a proper show cause notice and therefore, the seizure of the licence was without authority of law. It is further submitted that under a similar circumstances, the Division Bench of this Court interfered and directed the respondents to return the driving licence within a week time.

5.Opposing the prayer, the learned Additional Government Pleader for the respondents submits that the accident took place on 04.03.2022 and the FIR came to be registered against the petitioner under Section 304 A of IPC in Crime No.186 of 2022 before the 2nd respondent police station. It is further submitted that the licence was seized on 14.03.2022. It is submitted that the petitioner has rushed to this Court without giving enough time to the respondents even respond to the petitioner's representation dated 19.03.2022, which was received by the 1st respondent office on 21.03.2022. It is submitted that the writ petition has been immediately filed on 24.03.2022 and therefore the writ petition is liable to be dismissed.

6.The learned Additional Government Pleader for the respondents further submits that the 1st respondent is in the process of issuing a show cause notice to suspend the licence of the petitioner. It is submitted that the petitioner has caused death of two persons, who were involved in the accident. It is therefore submitted that it would not be appropriate to hand over the licence to the petitioner immediately.

7.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

8.The action of the 1st respondent seizing the licence of the petitioner is contrary to the enunciation of law by the Division Bench of this Court in the *Sethuraman's case (referred supra)*. The petitioner therein was involved in an accident, where FIR came to be registered under Section 304A of IPC. As long as the aforesaid order of the Hon'ble Division Bench is there, the same is binding to this Court. Therefore, I direct the respondents herein to return the licence to the petitioner within a period of 15 days from the date of receipt of a copy of this order. Liberty is given to the respondents to issue appropriate notice within such time. In case such show cause notice is issued for cancelling or suspending the licence, the same shall be decided by the respondents within a period of 15 days thereafter. It is needless to state that the petitioner shall also be heard before passing such orders.



9.The writ petition stands dismissed, in terms of the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Regional Transport Officer and
Licensing Authority,
Kumbakonam.

2.The Inspector of Police,
Thirupanandal Police Station,
Thanjavur District.

+1 CC to M/s.A.RAHUL, Advocate (SR-14693[F] dated 25/03/2022)

+1 CC to M/s.SPL GP (SR-15057[F] dated 29/03/2022)

W.P. (MD) No.5341 of 2022
25.03.2022

MGJ(08.04.2022) 4P 5C