



W.P(MD).No.22299 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.22299 of 2022

and

W.M.P(MD).No.16493 of 2022

M.Devendran

... Petitioner

Vs.

1.The Regional Transport Officer,
Madurai South,
Madurai.

2.The Inspector of Police,
Traffic Investigation Wing-III,
Police Station, Madurai City,
Madurai District.
(Crime No.168 of 2022)

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to forthwith return Petitioner's original Conductor's licence bearing Conductor's Licence No.TN591986CL00037 to him within a time limit that may be fixed by this Court.

For Petitioner	: Mr.A.Rahul
For R1	: Mr.P.Subbaraj Special Government Pleader
For R2	: Mr.R.M.Anbunithi Additional Public Prosecutor



ORDER

The writ petition is filed praying for a writ of Mandamus directing the Respondents to return the original Conductor's licence bearing Conductor's Licence No.TN591986CL00037 of the Petitioner forthwith.

2. Mr.P.Subbaraj, learned Special Government Pleader takes notice for the 1st Respondent and Mr.R.M.Anbunithi, learned Additional Public Prosecutor takes notice for the 2nd Respondent.

3. The Petitioner was issued with Conductor's licence bearing No.TN591986CL00037 issued by Licensing Authority, Unit Office of Transport Department, Vadipatti. The said Licence was issued on 04.02.1986 in exercise of powers conferred under Rule 58 of Central Motor Vehicles Rules. The licence is being periodically renewed from 04.02.1986 and the same is valid till 11.08.2025. The Petitioner joined the services of Tamilnadu State Transport Corporation (Madurai) Limited as Conductor with effect from 16.12.1997. The Petitioner's services were confirmed in the Post of Conductor with effect from 16.09.1998 on completion of 240 days of service. The petitioner has put in 26 years of service.



4. The 2nd Respondent registered a false criminal case in Crime No.168 of 2022 against one K.Balasubramanian, Petitioner's co-employee and the Petitioner for the offences punishable under Section 279 and 204 (A) of IPC on the basis of complaint given by one Uma Maheshwari on 29.08.2022. In her complaint, the defacto complainant alleged that she received information over phone on 29.08.2022 at 08.35 a.m., to the effect that her son Prabakaran, fell down from the front foot board of the State Government owned bus bearing Registration No.TN-58-N-1936 and got injured. She further alleged that Driver of the bus drove the bus in a very rash and negligent manner, due to which, her son fell down and got injured. According to the de-facto complainant, she received hearsay information to the effect that due to rash and negligent of the driver, her son fell down and got injured. The offences under Section 279 and 304 (A) IPC are attracted only against the driver for the alleged rash and negligent driving of the bus. However, the 2nd Respondent with a view to harass the Petitioner, implicated the Petitioner as 2nd Accused in the aforesaid criminal case.

5. It is submitted by the learned counsel for the Petitioner that in respect of very same FIR and very same accident, driver of the bus, namely, K.Balasubramanian, whose licence was suspended approached this Court and this Court directed the 1st Respondent therein to return the driving licence



inasmuch as the procedure contemplated under Section 19 of the Motor Vehicles Act was not followed. It is submitted that the Petitioner in the present case is a Conductor and the suspension of his licence is not in compliance with the procedure contemplated under Section 34 (1) of the Motor Vehicles Act, 1988, which reads as under:

“34. Power of licensing authority to disqualify

(1) If any licensing authority is of opinion that it is necessary to disqualify the holder of a conductor's licence for holding or obtaining such a licence on account of his previous conduct as a conductor, it may, for reasons to be recorded, make an order disqualifying that person for a specified period, not exceeding one year, for holding or obtaining a conductor's licence.

Provided that before disqualifying the holder of a licence, the licensing authority shall give the person holding such licence a reasonable opportunity of being heard.

A reading of the above provision would suggest that before suspending the Conductor's licence, the holder of the licence has been given a reasonable opportunity of being heard.

6. It is also submitted by the learned Counsel for the Petitioner that the original Conductor's licence was seized by the 2nd Respondent on 02.09.2022 and the same was handed over to the 1st Respondent. It is also submitted that no notice whatsoever have been issued to the Petitioner, though Section 34 of the Motor Vehicles Act provides for a reasonable opportunity of being heard before disqualifying the holder of a licence. It is submitted that non-



compliance with the procedure contemplated under Section 34 of the Motor Vehicles Act vitiates the entire proceedings.

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7. This Court finds that non-compliance with the procedure would prove fatal to the validity of the suspension of petitioner's licence. This Court finds that inasmuch as admittedly neither any show cause notice nor an enquiry having been made, the interim suspension of the licence is illegal. Hence, the 1st Respondent is directed to return the Conductor licence of the Petitioner, within a week from the date of receipt of copy of this order. However, it shall not preclude the 1st Respondent from proceeding further with the proceedings already initiated, if any of the contingencies specified in Section 34 of the Motor Vehicles Act, 1988 has arisen or if any of the Rules as prescribed by the Central Government in pursuance of Section 34 of the Motor Vehicles Act, 1988 are violated.

8. With the above directions, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.09.2022

Index : Yes / No
Internet : Yes/ No
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To

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MOHAMMED SHAFFIQ, J.

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