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W.P.No.20681 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.20681 of 2023

P.Mariyappan

...Petitioner

Vs.

1.The Regional Transport Officer
Regional Transport Office
No.56, Old State Bank Colony
Tambaram West
Chennai 600 045.

2.The Inspector of Police
T-2 Chrompet TIW, Police Station
Chitlapakkam
Chennai 600 064.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to return the petitioner's original driving license bearing No.MH14 20060006060 to the petitioner forthwith.



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W.P.No.20681 of 2023

For Petitioner : Mr. P.R.Krishna
for Ms.Kalaiselvi

For Respondents : Mr. P. Ananda Kumar
Government Advocate

ORDER

The petitioner herein seeks a direction to the first respondent to return his original driving license bearing No.MH14 20060006060.

2. According to the petitioner, he is employed in the Tamil Nadu State Transport Corporation. On 16.06.2023, when he was driving the Corporation Bus from Theni to Chennai, he met with an accident near Tambaram toll post. Though the petitioner was driving the bus carefully, a person suddenly crossed the road and consequently, the bus driven by the petitioner hit him, who received injury and succumbed to the injury later. The second respondent registered a case against the petitioner in FIR.No.190 of 2023 under Sections 279 & 304(A) of IPC.

3. It is the case of the petitioner that he was not responsible for the accident and the accident had taken place only due to the fact that the victim had crossed the road suddenly. A criminal case is filed against the petitioner,



W.P.No.20681 of 2023

which is pending. However, the second respondent seized the petitioner's original driving license and handed over the same to the first respondent. Though the petitioner made several representations to the respondents, they have not returned the driving license to the petitioner.

4. Since the original driving license of the petitioner is with the first respondent from 16.06.2023 onwards, the petitioner is unable to attend his duty. The first respondent is not entitled to hold the driving license without conducting any enquiry in accordance with law. The issue involved in this writ petition is covered by the decision of the Hon'ble Division Bench of this Court in ***P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul, reported in 2010 Writ L.R.100***, wherein it was held that the licensing authority is not entitled to pre-conclude the issue and come to the conclusion that the petitioner is guilty of rash and negligent driving even before the Criminal Court or Motor Accident Tribunal gives a formal finding to that effect. Relevant portion of the decision of the Hon'ble Division Bench in this regard in paragraph 10 & 11 are extracted below:

“10. Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ



W.P.No.20681 of 2023

WEB COPY

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 Clause (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 Clause (a) to (h) of Section 19(1), under which the case of the appellant would fall.

11. The respondent has, in the impugned order, preconcluded 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.”

5. In view of the law laid down by the Hon'ble Division Bench in the decision (referred to supra), the first respondent is not entitled to hold the driving license without conducting any enquiry. Therefore, this Court is



W.P.No.20681 of 2023

inclined to issue a direction to the first respondent to return the original driving license of the petitioner bearing bearing No.MH14 20060006060 to him immediately. However, this order will not prevent the first respondent from taking any action under Section 19 (1) of the Motor Vehicles Act.

6. With the above directions, this Writ Petition is allowed. No costs.

13.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
dna

To

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W.P No.20681 of 2023

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