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W.P.No.2298 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.2298 of 2024

R.Antony Thilagar

... Petitioner

Vs.

1.The Regional Transport Officer,
and Licensing Authority,
Office of the Regional Transport Officer,
Transport Department,
Tiruvannamalai.

2.The Inspector of Police,
Arni Taluk Police Station,
Tiruvannamalai District.
(in Crime No.1060 of 2023)

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to forthwith return the petitioner's original driving license bearing DL No. TN 69 19990001234 to the petitioner within a time limit that may be fixed by this Court.

For Petitioner : Mr.K.Hariharan

For Respondents : Mr.V.Ravi, SGP for R1
Mr.J.Subbiah, GA for R2



W.P.No.2298 of 2024

ORDER

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This Writ Petition has been filed seeking issuance of a Writ of Mandamus to direct the respondents to forthwith return the petitioner's original driving license bearing DL No. TN 69 19990001234 to the petitioner within a time limit that may be fixed by this Court.

2. Heard Mr.K.Hariharan, learned counsel for the petitioner and Mr.V.Ravi, learned Special Government Pleader for the first respondent and Mr.J.Subbiah, learned Government Advocate for the second respondent.

3. The petitioner who was working as a Driver in the State Express Transport Corporation (Tamil Nadu) Limited, has been booked with a case for the offence committed under Sections 279 and 304(A) of IPC in Crime No.1060 of 2023, of the Tiruvannamalai Police Station.

4. The learned counsel for the petitioner submitted that the alleged accident did not occur due to the negligence on the part of the petitioner but it was due to the negligence of the victim who was a minor, who had



W.P.No.2298 of 2024

driven her vehicle in a rash and negligent manner and got injured and later succumbed to death.

5. The grievance of the petitioner is that his Driving License was seized by the second respondent who has no authority to do so. The learned counsel for the petitioner brought the attention of this Court to Section 206 of the Motor Vehicle Act and submitted that the power to impound the documents like Driving License can be done only in accordance with Section 206 of Motor Vehicles Act for the offence committed under Motor Vehicles Act and not under any of the offences under IPC. The attention of this Court was drawn to the judgment of this Court held in the case of ***K.Senthil Kumar Vs. The Inspector of Police, Kundadam police Station, Tirupur District and another, reported in 2023 (4) CTC 307***. The relevant paragraphs are extracted as under:

"15. Therefore, before any action taken under Section 19 of the Act, an opportunity has to be given by the Licensing Authority. Therefore, the seizure power of the police introduced under Section 206 of the Act is only in certain circumstances. Only if the police officer



WEB COPY



W.P.No.2298 of 2024

has reason to believe that offence has committed in any of the sections 183, 184, 185, 189, 190, 194C, 194D, or 194E under sub-clause (4) of Section 206 of the M.V. Act, he can seize the licence and forward to the Licensing Authority. The combined reading of Clauses 1, 2, 3, and 4 of Section 206 of M.V.Act makes it clear that only three contingencies, the police officer can seize the licence. Particularly, when the identification mark or licence or the documents relating to the vehicle are false those documents can be seized under sub-clause (1).

16. The second contingency on which police officer can seize the licence is if any person charged under the M.V. Act, try to abscond or avoid service of summons, licence may be seized and temporary acknowledgment can be given. Another circumstances under Sub-clause 4 of section 206 of the Act is when the police officer has reason to believe that the driver of a motor vehicle has committed an offence under any of sections 183, 184, 185, 189, 190, 194C, 194D, or 194E, of the M.V.Act, the licence can be seized by the police officer. The power vested under Section 206 for seizure of the licence is not automatic. Only when the police officer records the reasons to believe that any of the



WEB COPY



W.P.No.2298 of 2024

circumstances as narrated in Section 206 is attracted he can exercise such a power. The word “reason to believe” is defined under Section 26 of the Indian Penal Code which reads as follows:

“Section 26 of The Indian Penal Code

26. “Reason to believe”.—A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing but not otherwise.

17. The word “reason to believe” excludes the mere suspicion or doubt. The word believe is very much stronger word than suspect and involves the necessity of showing the circumstances that a reasonable man must have felt convinced his mind, that circumstances exists to proceed under section 206 of the M.V. Act. “Reason to believe” means belief which a reasonable man will entertain on the facts before him and it contemplates an objective based on the independent care and deliberation and the same must be based on the good faith. In substance, the reason to believe means that a person must have a reason to believe if the circumstances are search that reasonable man would, by



WEB COPY



W.P.No.2298 of 2024

probable reasoning conclude or infer regarding the nature of the thing concerned. Such circumstances need not necessarily be capable of absolute conviction or inference but it sufficient such circumstances are creating a cause to believe by chain of probable reasoning leading to the conclusion or inference about the nature of the thing.

18. In such a view of the matter, even to exercise power under Section 206 the officer exercising the power has to record reasons in writing considering the facts and circumstances of the particular case. The seizure of the licence is not automatic. Without recording reasons obtaining to the facts and circumstances of the particular case such power cannot be exercised mechanically. With regard to exercise the power under section 19 of the Act by the RTA, it is relevant to note that before exercising such action a notice of opportunity to be given to the holder of licence. Sub-clause 2 of Section 19 makes it very clear that only the order under sub-clause 1 or Sub-clause 1A is made the holder of driving licence shall forthwith surrender his licence to the Licensing Authority making the order, if the driving licence is not already ordinarily surrendered."

6. Mr.J.Subbiah, learned Government Advocate for the second



W.P.No.2298 of 2024

respondent submitted that the license has been forwarded to the first respondent and it is the first respondent who had issued the impugned notice dated 03.01.2024 and hence, he has to take a decision.

7. Admittedly it is not the first respondent who asked the petitioner to hand over the license, but it is the second respondent who had seized the Driving License from the petitioner. However, the show cause notice has been given to the petitioner and the petitioner has got an opportunity to appear before the first respondent to make his submissions including the submissions that have been made before this Court with regard to the legality in seizing the license for the offence committed under IPC and in the light of the above pronouncement. The petitioner has also submitted his representation in response to the show cause notice dated 03.01.2024.

8. Rightly or wrongly the proceedings in respect of the driving license of the petitioner is pending before the first respondent. Since the petitioner has already made a representation to the first respondent, the same shall be considered both on factual and legal aspects by the first



W.P.No.2298 of 2024

respondent before passing any order.

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9. Hence, this Writ Petition is disposed and the first respondent is directed to consider the representation submitted by the petitioner on both factual and legal aspects and pass a reasoned order within a period of two weeks from the date of receipt of a copy of this order and shall forward a copy of the said order to the petitioner also. No costs.

05.02.2024

Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
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NOTE : Issue order copy on 06.02.2024.



W.P.No.2298 of 2024

WEB COPY

To

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and Licensing Authority,
Office of the Regional Transport Officer,
Transport Department,
Tiruvannamalai.

2.The Inspector of Police,
Arni Taluk Police Station,
Tiruvannamalai District.



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W.P.No.2298 of 2024

R.N.MANJULA, J.

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W.P.No.2298 of 2024

05.02.2024