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W.P.No.27881 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.27881 of 2024

and

W.M.P.No.30409 of 2024

E.Katha Muthu

.... Petitioner

Vs

1. The Regional Transport Officer,
Licensing Authority,
Transport Department,
Poonamallee,
Chennai-600056.

2. Inspector of Police,
T5 Thiruverkadu Police Station,
Thiruverkadu,
Chennai 600077.
(Crime No.486/2024)

.... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to return forthwith his original driving licence bearing No. TN 07 2005 0021986, with It any condition and without any endorsement and within a specified time as may be fixed by this Court..



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For Petitioner : Mr.S.Sakthivel
For R1 : Mr.S.Jayachandran
Government Advocate
For R2 : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)

ORDER

This Writ Petition has been filed for a direction directing the first respondent to return the original driving license bearing No.TN 07 2005 0021986.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was appointed as a driver in the Tamil Nadu State Transport Corporation and his service was regularised to the post of driver. While being so, when the petitioner was assigned duty in the bus bearing No.TN-01-N-5781 between Basin Bridge to Thiruverkadu, he completed his all trips and dropped the bus in Basin Bridge depot. While being so, on 30.08.2024, the first respondent informed to the Branch Manager, Basin Bridge depot that the driver of the bus had committed an accident on 14.08.2024 and an FIR has been registered in Crime No.486 of 2024 under Sections 281, 106(1) of the



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Bharatiya Nyaya Sanhita, 2023.

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4. Pursuant to the registration of FIR, the license of the petitioner was seized by the second respondent and the same was sent to the first respondent. Thereafter, the petitioner came to know that one of the passenger had fallen from the bus near the rear side and struck in the left hand side rear wheel of the bus. Therefore, he sustained injuries and died. Thereafter, the petitioner was issued with a show cause notice in the departmental proceedings. In the meanwhile, the first respondent refused to return the license of the petitioner and informed that the petitioner is not entitled for license since he committed an accident and disqualified to drive the vehicle.

5. The learned counsel appearing for the petitioner would submit that the first respondent has no jurisdiction to hold the license of the petitioner without passing any order under Section 19(1) of the Motor Vehicles Act, either disqualifying or suspending or revoking his license. Mere keeping the original license of the petitioner is clear violation of Articles 14 and 21 of the Constitution of India. He further submitted that the criminal proceedings are only in the FIR stage and the petitioner has



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not been convicted or tried before any competent Criminal Court pursuant to the FIR. That apart, the accident did not occur due to his negligence and it had taken place only due to the negligence of the deceased. Therefore, the petitioner is not responsible for the accident.

6. A perusal of the provision under Section 19(1) of the Motor Vehicles Act, it is clear that the Licensing Authority has the power to revoke any license or disqualify a person from holding and obtaining driving license for a specified period, if any of the contingencies prescribed in Clauses (a) to (h) of sub-section (1) of Section 19 arises. It can be invoked only after giving an opportunity of hearing to the holder of license and the reasons to be recorded in writing.

7. Admittedly, an FIR is pending as against the petitioner and due to an accident. Further, the petitioner never used the vehicle for any illegal purpose. Further, the first respondent ought not to have seized the license without an order of conviction.

8. In view of the above, the first respondent is directed to return the original driving license bearing No.TN 07 2005 0021986 to the petitioner forthwith.



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9. With the above direction, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

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2. Inspector of Police,
T5 Thiruverkadu Police Station,
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G.K.ILANTHIRAIYAN. J.

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