



W.P.(MD).No.19679 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

CORAM

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.19679 of 2024

S.Chandrasekar

... Petitioner

Vs.

1.The Regional Transport Officer,
Srirangam,
Trichy District.

2.The Sub Inspector of Police,
Jeeyapuram Police Station,
Trichy.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to return the original driving licence No.TN4819960000746 of the petitioner to him forthwith.

For Petitioner : Mr.A.Balaji

For R-1 : Mr.J.K.Jayaselan

Government Advocate

For R-2 : Mr.Vaikkam Karunanithi

Government Advocate



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ORDER

The present Writ Petition is filed for Mandamus directing the first respondent to return the original driving licence of the petitioner bearing No.TN4819960000746 forthwith.

2. It was submitted by the learned counsel for the petitioner that on 01.08.2024, the bus, driven by the petitioner herein, was involved in a road traffic accident resulting in death of a person. Pursuant to which, an FIR in Crime No.215 of 2014 came to be registered by the second respondent Police for the offences under Sections 281, 125(a) and 106(1) of BNS. Thereafter, on 02.08.2024, the petitioner was directed to produce the bus for inspection before the Motor Vehicle Inspector. On that day, the vehicle was inspected as well as the petitioner's licence was retained by the Motor Vehicle Inspector. Thereafter, on 05.08.2024, the petitioner approached the office of the first respondent and submitted a representation for return of his driving licence, which is stated to be denied. Hence, the present Writ Petition has been filed.

3. It was submitted that after filing of the Writ Petition, the petitioner was served with the proceedings dated 16.08.2024 suspending the driving licence for a period of three months commencing from 01.08.2024 to 30.10.2024.



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4. Heard the learned counsels on either side and perused the materials available on record.

5. Though the Writ Petition has been filed for Mandamus directing the first respondent to return the driving licence, however, since in the interregnum, an order dated 16.08.2024 has been passed disqualifying the petitioner's licence for a period of three months and as the same is contrary to the provisions of Section 19 of the Motor Vehicles Act, this Court takes note of the subsequent events.

6. A show cause notice dated 05.08.2024 was issued to the petitioner stating that an opportunity of hearing would be provided on 13.08.2024. Though the petitioner has submitted his explanation dated 13.08.2024, the first respondent, without providing adequate reasons, had proceeded to pass the order dated 16.08.2024. The relevant portion of the said order is extracted hereunder:

“The license holder CHANDRASEKAR S has submitted an explanation on 13.08.24.

I have perused all the records and averments came before me and found that there is no reason to exonerate the holder of the Driving License from the charges framed against him and convinced that he has committed the offences as alleged.”



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Thus, it would clearly show gross non-application of mind and violation of principles of natural justice.

7. Further, the petitioner has not been held to be guilty of rash and negligent driving by criminal Court or by the Motor Accident Claims Tribunal. It is only the FIR that holds the petitioner guilty of rash and negligent driving.

8. It is submitted by the learned counsel for the petitioner that when neither the Criminal Court nor the Claims Tribunal have pronounced on the guilt of the petitioner, the first respondent has prejudged the issue by passing the order disqualifying the driving licence. It was further submitted that though the petitioner had submitted his objections, the order dated 16.08.2024 has been passed on gross non-application of mind. It is also submitted by the learned counsel for the petitioner as well as the learned counsel for the respondents that the above issue stands covered by a decision of this Court W.P(MD)No.5635 of 2021, wherein, it was held as follows:

“5.I carefully considered the rival contentions and went through the materials on record. The impugned order is vulnerable on more grounds than one. Though the petitioner had given his explanation and the same was sent by registered post on 22.01.2021, the second respondent has proceeded in the matter as if no explanation was given. That



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apart when neither the Criminal Court nor the Claims Tribunal have pronounced on the guilt of the petitioner, the second respondent has chosen to prejudge the issue. The petitioner was also not given any opportunity of personal hearing, though it is specifically contemplated by Section 19(1) of the Motor Vehicles Act, 1988.

*6.A Hon'ble Division Bench of this Court in the decision reported in **2010 Writ L.R. 100 (P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul)** has held as follows:-*

“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.”

7. Respectfully following the same,, the order impugned in this writ petition is quashed. The writ petition is allowed. The respondents are directed to return the petition mentioned original driving license to the petitioner immediately and without any delay. No costs.”



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9. The order passed by the first respondent dated 16.08.2024, insofar as it disqualifies the driving licence of the petitioner when neither the Criminal Court nor the Claims Tribunal have pronounced on the guilt of the petitioner, has thereby prejudged the issue, which would vitiate the entire proceedings as held by this Court in W.P.(MD).No.5635 of 2021. In the light of the above decision, this Court is inclined to set aside the order passed by the first respondent dated 16.08.2024 and further, directs the respondents to return the driving licence of the petitioner, within a week from the date of receipt of a copy of this order.

10. With the above direction, this Writ Petition is allowed. There shall be no order as to costs.

19.08.2024

Index : Yes / No
Internet : Yes/ No
Lm

To
1.The Regional Transport Officer,
Srirangam,
Trichy District.

2.The Sub Inspector of Police,
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MOHAMMED SHAFFIQ, J.

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