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G. Murugesan Vs The Licensing Authority, The Regional Transport Officer

Writ Petition (MD) . No. 15050 of 2010

Court: Madras High Court (Madurai Bench)

Date of Decision: Jan. 4, 2011

Acts Referred:
Constitution of India, 1950 â€" Article 14, 21#Motor Vehicles Act, 1988 â€" Section 184, 19(1), 20(1), 21#Penal Code, 1860 (IPC) â€" Section 297, 304A, 337

Citation: (2011) 2 CTC 803

Hon'ble Judges: V. Dhanapalan, J

Bench: Single Bench

Advocate: S. Arunachalam, for the Appellant; P. Thilak Kumar, Additional Government Pleader, for the Respondent

Final Decision: Allowed

Judgement

V. Dhanapalan, J.
This Writ Petition is filed for a Mandamus directing the Respondent to return the Driving Licence bearing No. D.L. No.

TN-55-19950000065 within a reasonable time.

2. It is the case of the Petitioner that the Petitioner was working as a Driver in Pudukottai Region of the Tamil Nadu State Transport Corporation,

(Kumbakonam) Limited. He was having a Driving Licence bearing No. D.L. No. TN-55-19950000065. On 22.11.2010, while he was driving

the bus bearing registration No. TN-58-N-0435, the said bus met with an accident. Thereafter, a case in Crime No. 280 of 2010 was registered

at Annavasal Police Station under Sections 297, 337 and 304-A of IPC. As a result of which, his Driving Licence was impounded by the

Respondent. Therefore, the Petitioner made a representation to the Respondent on 09.12.2010 and even thereafter, there was no reply from the

Respondent. Hence, the Petitioner is before this Court for the relief as stated earlier.

3. The learned Counsel for the Petitioner submits that the said accident took place only because of the gross negligence on the part of the opposite

van driver, who drove the vehicle with gross negligence and the Petitioner is no way responsible for the said accident. He further submits that the

Respondent has not followed the statutory rules before impounding the Driving Licence of the Petitioner and that the Petitioner was not provided

with any opportunity to submit his explanation. The action of the Respondent is arbitrary and violative of Articles 14 and 21 of the Constitution of

India. He further submits that the Petitioner could not go to job without his Driving Licence. Hence, he prays this Court for a direction to the

Respondent to return the Driving Licence of the Petitioner.

4. Mr. P. Thilak Kumar, the learned Government Advocate, took notice for the Respondent and he also submitted that till date, no proceedings

are initiated against the Petitioner under the Motor Vehicles Act.

5. Heard Both sides.

6. The legal question arises for consideration in this petition is as to whether the Respondent has power to impound the Driving Licence of a person

involved in a road traffic accident as per Section 19(1) of the Motor Vehicles Act, 1988 (hereinafter referred as the Act) which empowers the

Licensing Authority to disqualify a person for holding or obtaining any Driving Licence for a specified period or to revoke any such licence. Further

Section 20(1) of the Act empowers to disqualify a person from holding a Driving Licence for a specified period when he has been convicted for an

offence under the Act. Section 21 of the Act makes a Driving Licence become suspended, if the holder of the licence had been previously

convicted for an offence punishable u/s 184 of the Act and a case had been registered against him on the allegation of causing the death or grievous

injury to one or more persons by dangerous driving.

7. In this case, the Petitioner"s Driving Licence was impounded by the Respondent without adhering statutory rules. Clause 19(1) of the Act

envisages the Licensing Authority to give an opportunity of being heard to a licence holder before impounding the Driving Licence. The Licensing

Authority has not followed the procedure of being heard the Petitioner before impounding the licence.

8. The issue which arise for consideration in the present matter has already been decided by a Division Bench of this Court in P. Sethuram v. The

Licensing Authority, The Regional Transport Officer, Dindigul 2009 (2) TN MAC 252 (DB) : 2010 WLR 100, wherein in paragraph 9, it has

been held as follows:

But in the case on hand, the licence of the Appellant was impounded or retained by the Police immediately after the accident. Thereafter, the

Respondent issued the Show Cause Notice u/s 19(1) of the Act, after getting a report from the Police. Therefore, the impounding of the licence

has actually preceded the issue of Show Cause Notice.

9. The learned Government Advocate would submit that the law laid down by the Division Bench of this Court holds the field.

10. This Court has held in various judgments that without initiating proceedings against a person under the provisions of Motor Vehicles Act, the

Licensing Authority has no power to retain or impound the Driving Licence and the act of the Licensing Authority in retaining the Driving Licence is

illegal.

11. In this case also, admittedly no action has been taken against the Petitioner by the Respondent in accordance with the provisions of the Act.

Nevertheless, the Respondent is retaining the Driving Licence of the Petitioner, which action has been deprecated by this Court in various

judgments.

12. In view of the above, the Respondent is directed to return the Driving Licence of the Petitioner immediately on production of a copy of this

order and the Respondent is at liberty to proceed against the Petitioner for violation of the Motor Vehicles Act in accordance with law.

Accordingly, the Writ Petition is allowed. No costs.