

Madras High Court

K.Nagasundaram vs The Regional Transport Officer on 14 July, 2023

W.P(MD).No.17031 o

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.17031 of 2023

and

W.M.P(MD).Nos. 14246, 14247 and 14249 of 2023

K.Nagasundaram

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Vs.

- 1.The Regional Transport Officer,
and Licensing Authority,
Office of the Licensing Authority,
Transport Department,
Trichy (West), Trichy-Dindigul Main Road,
Pirattiyur, Trichy.
- 2.The Inspector of Police,
Traffic Investigation Wing South Police Station,
Trichy City.
(In Crime No.120 of 2023)
- 3.The Licensing Authority,
RTO Unit Office, Transport Department,
Alangudi, Pudukottai District.

...Respon

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the Impugned Order passed by the first respondent Proceedings in Show Cause No.TN45/2023/514, dated Nil signed by the first respondent on 25.06.2023 and quash the same as illegal and consequently

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<https://www.mhc.tn.gov.in/judis>

W.P(MD).No.17

directing the respondents to forthwith return the petitioner's original license bearing DL No.TN-55 1991 0000398 to him within a time limit that may be fixed by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader.

ORDER

This writ petition has been filed challenging the impugned order, dated 25.06.2023, whereby, the Petitioner's driving licence is suspended for a period of six months from 03.05.2023 to 02.11.2023.

2. Heard Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.A.K.Manikkam, learned Special Government Pleader appearing for the respondents.

3. The learned counsel for the Petitioner submitted that on 03.05.2023, 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.120 of 2023 came to be registered by the 2 nd Respondent Police for offences under Sections 279 and 304 (A) of IPC. Thereafter, on 05.05.2023, the Petitioner was directed to produce the bus for inspection before the Motor <https://www.mhc.tn.gov.in/judis> W.P(MD).No.17031 of 2023 Vehicle Inspector. On that day, the vehicle was inspected as well as the Petitioner's license was retained by the Motor Vehicle Inspector. The impugned order dated 25.06.2023 came to be passed, whereby the petitioner's driving license was suspended for a period of six months from 03.05.2023 to 02.11.2023. Aggrieved over the same, the petitioner is before this Court.

4. It is submitted by the learned counsel for the petitioner that when neither the Criminal Court nor the Claims Tribunal have pronounce on the guilt of the petitioner, the first respondent has prejudged the issue by passing the impugned order suspending the driving licence, which is not in accordance to law. It is further submitted that though the investigation in the criminal case has not been completed and not final report has been laid against the petitioner, the first respondent has no authority to retain the petitioner's license. It is also submitted that the above issue is covered by a decision of this Court W.P(MD)No.5635 of 2021, dated 15.03.2021, wherein, it was held as follows:

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“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 <https://www.mhc.tn.gov.in/judis> W.P(MD).No.17031 of 2023 has proceeded in the matter as if no explanation was given. That 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.”
<https://www.mhc.tn.gov.in/judis> W.P(MD).No.17031 of 2023

5. In view of the same, this Court is inclined to set aside the impugned order, dated 25.06.2023 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. However, it shall not preclude the first respondent from proceeding further with the proceedings already initiated, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Motor Vehicles Act, 1988 has arisen or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated.

6. With the above directions, this Writ Petition is allowed. No costs. Consequently, W.M.P(MD)No.14246 of 2023 is allowed and W.M.P(MD)Nos.14247 and 14249 of 2023 are closed.

14.07.2023 Index : Yes / No Internet : Yes/ No ksa Note: Issue order copy on 14.07.2023.

<https://www.mhc.tn.gov.in/judis> W.P(MD).No.17031 of 2023 To

1. The Regional Transport Officer, and Licensing Authority, Office of the Licensing Authority, Transport Department, Trichy (West), Trichy-Dindigul Main Road, Pirattiyur, Trichy.

2. The Inspector of Police, Traffic Investigation Wing South Police Station, Trichy City.

(In Crime No.120 of 2023)

3. The Licensing Authority, RTO Unit Office, Transport Department, Alangudi, Pudukottai District.

<https://www.mhc.tn.gov.in/judis> W.P(MD).No.17031 of 2023 S.SRIMATHY, J.

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