



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) No.10729 of 2017

WEB COPY

Govindarajan

... Petitioner

Vs.

1.The Regional Transport Officer,
Tirunelveli,
Tirunelveli District.

2.The Road Inspector,
Valliyoor,
Tirunelveli District.

3.The Inspector of Police,
Valliyoor Police Station,
Valliyoor,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of a Writ of Mandamus, to direct the 1st respondent to return back the petitioner's original driving license in driving license No. TN 27 1990 0000496 to the petitioner.

For Petitioner : Mr.M.S.Jayakarthish

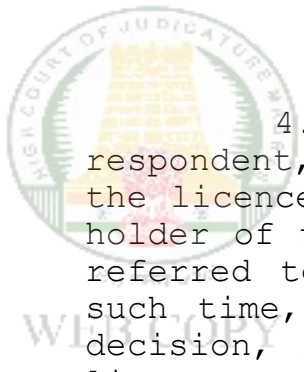
For Respondents : Mr.C.Selvaraj,
Special Government Pleader.

ORDER

This Writ Petition has been filed by the petitioner, for issuance of a Writ of Mandamus, directing the first respondent, to return back the petitioner's original Driving Licence to him.

2.Heard, Mr.M.S.Jeyakarthish, learned Counsel appearing for the petitioner and Mr.C.Selvaraj, learned Special Government Pleader appearing for the respondents.

3.The petitioner was working as a Driver. On 16.04.2017, the vehicle which was driven by the petitioner met with an accident and as a result, a person who rode in a Bi-cycle died and a complaint was registered against the petitioner in Crime No.97 of 2017, on 16.04.2017. It is the case of the petitioner that the third respondent police seized the original Driving Licence from the petitioner on 16.04.2017 and the same was handed over to the second respondent on 17.04.2017. Thereafter, without any enquiry, the second respondent, in turn handed over the licence to the first respondent.



4. The grievance of the petitioner is that the first respondent, got power and authority to disqualify a person to hold the licence and to revoke the licence for a specific period, if the holder of the licence is found guilty certain misconduct, which are referred to under Section 19 (1) of the Motor Vehicle Act. Till such time, the first respondent hold an enquiry and take a final decision, it is not open to the first respondent to withhold the licence.

5. The Honourable Division Bench of this Court, in the case of **Sethuram v. Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul**, reported in **2010 Writ L.R. 100**, has held that without holding an enquiry under Section 19 (1) and finding guilty of the misconduct alleged against the petitioner in terms of clause (a) to clause (h) of Sub Section (1) of Section 19 of the Act, the first respondent has no power to seize the licence. It is further held that mere involvement of driver in a road accident is not enough to invoke the power to suspend or revoke a driving licence.

6. Since in this case, no show cause notice was issued in terms of Section 19 (1) of Motor Vehicle Act, withholding of the licence without an order suspending the licence, cannot be justified. Hence this Writ Petition is allowed and the first respondent is directed to hand over the licence to the petitioner forthwith. However, it is made clear that it is open to the first respondent to initiate appropriate action for suspending or cancelling the licence as contemplated under Section 19 (1) of the Motor Vehicle Act, after issuing show cause notice and conducting an enquiry as contemplated for the said purpose.

Sd/-

Assistant Registrar(Record)

/True Copy/

Sub Assistant Registrar

To

1. The Regional Transport Officer,
Tirunelveli,
Tirunelveli District.
2. The Road Inspector,
Valliyoar,
Tirunelveli District.
3. The Inspector of Police,
Valliyoar Police Station,
Valliyoar,
Tirunelveli District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.60195

+1cc to Mr.M.S.JAYAKARTHIK Advocate in SR. No.59981

GSP/CMR