



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WEB COPY

W.P(MD)No.7705 of 2018

and

W.M.P(MD)No.7318 of 2018

V.Ramakrishnan

... Petitioner

Vs.

1.The Licensing Authority/  
Regional Transport Officer,  
Thoothukudi.

2.The Inspector of Police,  
Muthaiahpuram Police Station,  
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus to direct the respondents to return the petitioner's original driving licence bearing DL.No.TN72 20010000197 to the petitioner within a time limit that may be fixed by this Court.

For Petitioner

: Mr.A.Rahul

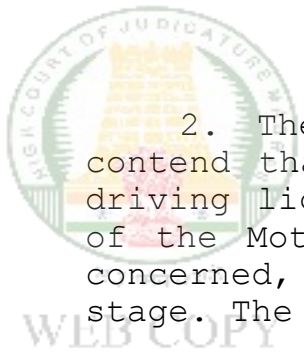
For Respondents

: Mrs.J.Padmavathi Devi

Special Government Pleader

### ORDER

The petitioner is a driver in the State Express Transport Corporation (Tamil Nadu) Limited, Thoothukudi Branch. On 18.03.2018, while he was driving a bus bearing Registration No.TN-01-AN-0151, there was an accident in which, a cyclist sustained injury. First Information Report was filed in Cr.No.62 of 2018 and a case was registered against the petitioner under Sections 279 and 304-A I.P.C. It is stated by the petitioner that the original licence was seized by the police in the Police Station and it was forwarded to the first respondent. The second respondent - Inspector of Police, Muthaiahpuram Police Station, Thoothukudi District, has communicated the first respondent on 20.03.2018 and recommended for cancellation of the driving licence of the petitioner. It is further stated that along with the said communication, the original driving licence of the petitioner was also sent to the first respondent. The petitioner made a representation to the first respondent for return of the original licence by his letter dated 05.04.2018. Since the first respondent has not returned the licence, the petitioner is before



2. The learned Counsel for the petitioner would vehemently contend that the first respondent has no authority to impound the driving licence even before passing the orders under Section 19(1) of the Motor Vehicles Act, 1988. Insofar as the criminal case is concerned, it has not reached finality and it is in the initial stage. The final report has not also been filed.

3. From the submissions made by the learned Special Government Pleader appearing for the respondents, it is noted that the original driving licence of the petitioner is now in possession of the first respondent.

4. It is settled law that until the licence or any certificate issued by the competent authority is cancelled or suspended or revoked in the manner known to law, it is deemed to be in force. The impounding of licence will come only after passing of the order as per the relevant provisions of the statute, in this case, under Section 19 of the Motor Vehicles Act, 1988.

5. In similar circumstances, a Division Bench of this Court, in Sethuraman v. Regional Transport Officer reported in 2010 WLR 100, held that even before passing the order under Section 19 of the Motor Vehicles Act, 1988, if driving licence is impounded, it amounts to pre-determination of the issue and the authority has no jurisdiction to do so.

6. I do also respectfully agree with the views of the Division Bench of this Court and in the instant case, the first respondent has no power to impound the driving licence of the petitioner and retain it with him. The petitioner is a driver and he is entitled to use the licence till it is legally cancelled or suspended.

7. In such circumstances, a direction is issued to the first respondent - Regional Transport Officer, Thoothukudi, to return the original driving licence bearing DL.No.TN72 20010000197 to the petitioner forthwith, on receipt of a copy of this order.

8. In fine, this writ petition is ordered accordingly. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-  
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Licensing Authority/  
Regional Transport Officer,  
Thoothukudi.



2.The Inspector of Police,  
Muthaiahpuram Police Station,  
Thoothukudi District.

+1cc to M/S.A.Rahul, Advocate SR.No. 61293

+1cc to Special Government Pleader, SR.No. 61412

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rsb

JM/SV MMS/SAR 4/16.04.2018/3P/5C