



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 16.04.2018  
CORAM:

**THE HONOURABLE MR.JUSTICE M.GOVINDARAJ**

WEB COPY

**W.P(MD)No.8191 of 2018  
and  
W.M.P. (MD)Nos.7744 and 7745 of 2018**

K.Jeyaprakash : Petitioner

Vs.

1. The Regional Transport Officer,  
Office of the RTO,  
Dindigul District.
2. The Manager,  
Dindigul Zone,  
Tamil Nadu Transport Corporation Ltd.,  
Dindigul.
3. The Inspector of Police,  
Sempatti Police Station,  
Dindigul District,  
Crime No.30 of 2018.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order made by the first respondent in his impugned order in செ.மு.ஆணை.எண்.4433 உ 1 2018, நாள் 05.03.2018, and quash the same and to direct the first respondent to hand over the licence, within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Rajaram  
For Respondents : Mr.B.Bhagavathi,  
Government Advocate

**ORDER**

The petitioner has come forward with the present Writ Petition seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in his impugned order in செ.மு.ஆணை.எண்.4433 உ 1 2018, நாள் 05.03.2018, quash the same and to direct the first respondent to hand over the licence, within the time stipulated by this Court.



2. The petitioner is a driver working under the second respondent. On 19.01.2018, while he was driving the vehicle, an accident had taken place, in which, a two wheeler rider, who tried to overtake the bus, dashed against the bus on the right side and succumbed to head injuries. Against the petitioner, a case was registered in Crime No.30 of 2018 for the offences under Sections 279 and 304(A) of the Indian Penal Code. Thereafter, the third respondent seized the licence from him and handed it over to the first respondent. The first respondent, after issuing a notice under Section 19(1) of the Motor Vehicles Act, passed the impugned order in **செ.மு.ஆணை.எண்.4433 உ** 1 2018, dated 05.03.2018, suspending the licence for a period of six months. Aggrieved over the order passed by the first respondent, the petitioner is before this Court.

3. According to the petitioner, the order passed by the first respondent is predetermined and without jurisdiction, as the investigation in the criminal case is still at initial stage and the petitioner is not found guilty.

4. Controverting the submission, the learned Government Advocate appearing for the respondents would submit that the order passed is only a temporary suspension and when it is clearly made out that the petitioner, while driving the bus, involved in the accident, which was the commission of offence, the temporary suspension passed by the first respondent cannot be said to be illegal and without jurisdiction.

5. It is well settled that before the guilt is proved, the driver shall not be penalized. In the instant case, the criminal case is filed against the driver and the investigation is in the preliminary stage and even the final report is not filed. Unless and until he is found guilty, the first respondent cannot predetermine the issue and temporarily suspend the licence.

6. In similar circumstances, a Division Bench of this Court in **P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul** reported in 2010 Writ L.R. 100, at Paragraph Nos.9 and 10, held as follows:

**"9. 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 under Section 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.**

**10. Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section**



19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall."

7. Coming to the case on hand, the first respondent has no jurisdiction to pass orders under Section 19(1) of the Motor Vehicles Act, before finding the driver guilty. Therefore, the order passed by the first respondent is violative of the statutory provision as well as the decision rendered by the Division Bench of this Court referred to above. In such circumstances, the impugned order passed by the first respondent dated 05.03.2018 is set aside and the Writ Petition is allowed. The first respondent is directed to return the licence forthwith to the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Regional Transport Officer,  
Office of the RTO,  
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  2. The Manager,  
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Dindigul.
  3. The Inspector of Police,  
Sempatti Police Station,  
Dindigul District
- +1cc to MR.A.RAJARAM, Advocate SR.No.61380  
+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.61621  
SML  
MK/SV MMS/SAR-3/19.04.2018/3P/6C