



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Writ Petition(MD)No.8765 of 2018

A.Gunasekaran

... Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office (Madurai North),
Palanganatham,
Madurai.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondent to return the driving licence of the petitioner bearing D.L.No.TN59-19851097195 forthwith.

For Petitioner : Mr.S.Arunachalam

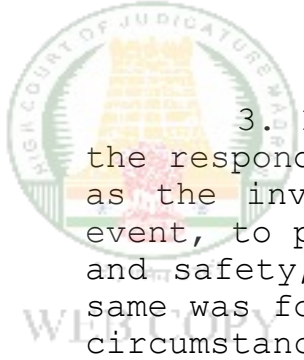
For Respondent : Mr.S.Dhayalan

Government Advocate

O R D E R

The writ petitioner is the driver employed under the Tamil Nadu State Transport Corporation (Madurai Limited). While he was on duty, an accident had taken place on 13.04.2018, in which a motorcyclist having lost his control and dashed against the bus and suffered grievous injuries. At a later point of time, the motorcyclist succumbed to injuries and an F.I.R. was registered against the petitioner in Crime No.130 of 2018 for the offences under Sections 279 and 304 (A) of I.P.C. The police have seized the licence and forwarded the same to the respondent for cancellation of the licence. The petitioner, immediately made a representation to the respondent on 16.04.2018, requesting him for return of licence.

2. The learned counsel appearing for the petitioner would contend that the petitioner is the Senior Grade Driver and he was not responsible for the accident that had taken place on 13.04.2018. Even before conclusion of the criminal proceedings and even before he was found guilty, the licence was seized by the respondent. Impounding of licence before passing orders under Section 19 of the Motor Vehicles Act, 1998, is illegal and the respondent has no authority to impound the licence.



3. Per contra, the learned Government Advocate appearing for the respondent would contend that the commission of accident as well as the involvement of the driver are all admitted facts. In that event, to prevent further accidents, considering the public interest and safety, the licence was seized by the police officials and the same was forwarded to the respondent for appropriate action. In such circumstances, the impounding of licence by the respondent is not illegal, but in-conformity with the Act and Rules. Therefore, the writ petition is liable to be dismissed.

4. Heard both side.

5. Admittedly, there was an accident on 13.04.2018, in which the petitioner was driving the bus involved in the accident. The petitioner would allege that the motorcyclist lost his control and dashed against the extreme left side portion of the bus and suffered injuries and succumbed to the same. The petitioner is accused of rash and negligent driving, but there is no conclusive proof that he is guilty of the offences attributed against him. Till the guilt is proved, the respondent cannot initiate action without setting out a justifiable reason. Impounding of licence will be done only after passing orders as per Section 19 of the Motor Vehicles Act, 1988. But, in the instant case, admittedly, the licence has been impounded even before initiation of proceedings under Section 19 of Motor Vehicles Act. The respondent has no jurisdiction to impound the licence without passing any orders in accordance with law. The impounding of licence of the driver of the State Transport Corporation will preclude him from driving the vehicle and it will deprive him of his right to work. In such circumstances, the respondent shall be directed to return the licence impounded by him without jurisdiction forthwith. Accordingly, the respondent is directed to return the licence forthwith.

6. In fine, the writ petition is allowed as prayed for. No costs.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

The Regional Transport Officer,
The Regional Transport Office (Madurai North),
Palanganatham, Madurai.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.63319

+1CC TO M/S.S.ARUNACHALAM, ADVOCATE, SR NO.62932

W.P. (MD) No.8765 of 2018

23.04.2018