



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P (MD) No.8738 of 2018

Nagarajan

... Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office,
Thanjavour,
Thanjavour District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus to direct the respondent to return the petitioner's original driving licence, bearing No.TN 46/DLR/0001901/ 2015 dated 20.05.2015 which was seized and sent by the Inspector of Police Thiruvaiyaru through the communication dated 14.04.2018 to the respondent immediately within time frame as fixed by this Court.

For Petitioner : Mr.B.Prahalad Ravi

For Respondent : Mr.Bagavathi
Government Advocate

ORDER

The petitioner is a driver in the Tamil Nadu Government Transport Corporation, Ariyalur Branch. On 10.04.2015, while he was driving a bus bearing Registration No.TN-45-N-3573, there was an accident in which, a motor cyclist sustained injuries and died in the hospital. First Information Report was filed in Cr.No.111 of 2018 and a case was registered against the petitioner under Sections 279 and 337 I.P.C., altered into Sections 279, 337, 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 respondent. The Inspector of Police, Thiruvaiyaru Police Station, has communicated the respondent on 14.04.2018 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 respondent. The petitioner made several representations to the respondent for return of the original



licence. Since the respondent has not returned the licence, the petitioner is before this Court.

2. The learned Counsel for the petitioner would vehemently contend that the 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 Government Advocate appearing for the respondent, it is noted that the original driving licence of the petitioner is now in possession of the 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 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 respondent - Regional Transport Officer, Thanjavur, Thanjavur District, to return the original driving licence bearing No.TN 46/DLR/0001901/ 2015 to the petitioner forthwith, on receipt of a copy of this order.

8. In fine, this writ petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar(W)

/True Copy/



To

The Regional Transport Officer,
The Regional Transport Office,
Thanjavur,
Thanjavur District.

+ 1 cc TO Mr.B.Prahalad Ravi , Advocate in SR No. 64706
+ 1 cc TO The Special Government Pleader in SR No. 64462

sm

AE/JC/SAR1/16.05.2018/3P/4C

Order made in
W.P(MD)No.8738 of 2018
27.04.2018