



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.06.2018

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD) No.12090 of 2018

R.Arockiaraj : Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Pudukkottai. : 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 petitioner's original driving licence bearing DL.No.TN49 20070005078 to the petitioner forthwith.

For Petitioner : Mr.D.Rameshkumar

For Respondents : Mr.A.Muthu Karuppan,
Addl. Government Pleader

ORDER

The petitioner is a driver in the Tamil Nadu State Transport Corporation Limited, Kumbakonam Region, Pudukkottai Division, Ponnamaravathi Branch. On 07.05.2018, while he was driving a bus bearing Registration No.TN55N 0698, there was an accident in which, rider of the two wheeler died. First Information Report was filed in Cr.No.36 of 2018 and a case was registered against the petitioner under Section 304-A I.P.C. It is stated by the petitioner that during enquiry, the police seized the original driving licence of the petitioner. Thereafter, the same was handed over to the respondent. The petitioner approached the office of the respondent many times in person and submitted a representation through registered post to the respondent for return of the original licence on 24.05.2018. Since the respondent has not returned the licence, the petitioner is before



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 Additional Government Pleader 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 - The Regional Transport Officer, Regional Transport Office, Pudukkottai District, to return the original driving licence bearing DL.No. TN49 20070005078 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(T&P)

/True Copy/

Sub Assistant Registrar



To

The Regional Transport Officer,
Regional Transport Office,
Pudukkottai.

WEB COPY

+ 1 cc TO Mr.D.Ramesh Kumar , Advocate in SR No. 67592
+ 1 cc TO The Special Government Pleader in SR No. 67779

vs

AE/SV MMS/SAR4/20.06.2018/3P/4C

Order made in
W.P (MD) No.12090 of 2018
11.06.2018