



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

WEB COPY

W.P (MD) No.12261 of 2018

M. Balakrishnan

: Petitioner

Vs.

1. The Inspector of Police,
Traffic Investigating Wing,
Velayuthampalayam Police Station,
Karur District.

2. The Licensing Authority -cum-
Motor Vehicles Inspector,
Regional Transport Office,
Manmangalam, Karur District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the second respondent to return the original driving licence (DL.No.TN05 19880001319) to the petitioner forthwith.

For Petitioner

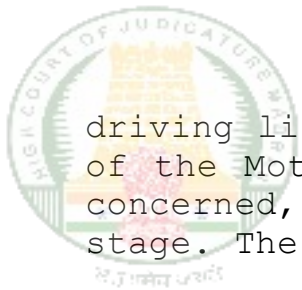
: Mr.K.Hariharan

For Respondents

: Mrs.J.Padmavathi Devi,
Special Government Pleader

ORDER

The petitioner is a driver in KPN Travels, Salem. On 24.03.2018, while he was driving a bus bearing Registration No.KA-51/D-7211, there was an accident in which, a motor cycle rider died. First Information Report was filed in Cr.No.91 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 first respondent while registering the First Information Report and it was forwarded to the second respondent on 28.03.2018. The first respondent has also recommended for cancellation of the driving licence of the petitioner. The petitioner made a representation to the second respondent for return of the original licence by his letter dated 04.04.2018. Since the second respondent has not returned the licence, the petitioner is before this Court.



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 second 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 second 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 second respondent - The Licensing Authority -cum- Motor Vehicles Inspector, Regional Transport Office, Manmangalam, Karur District, to return the original driving licence bearing DL.No.TN05 19880001319 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(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Traffic Investigating Wing,
Vediyathampalayam Police Station,
Karur District.



2. The Licensing Authority -cum-
Motor Vehicles Inspector,
Regional Transport Office,
Manmangalam, Karur District.

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+1cc to Mr..K.Hariharan, Advocate Sr.No.67733

+1cc to SPECIAL GOVERNMENT PLEADER, Sr.No.67598

SML

MK/SKN RSK/SAR 2/19.06.2018/3P/5C

Order made in
W.P(MD)No.12261 of 2018
08.06.2018