



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2018

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.19364 of 2018

V.Senthamarai Kannan

... Petitioner

vs.

1)The Regional Transport Officer,
Thiruverumbur, Trichy District.

2)The Inspector of Police,
Navalpattu Police Station,
Trichy District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 1st respondent to return the petitioner's original driving licence bearing D.L.No.TN-63-198800000258 valid upto 04.05.2020 to the petitioner forthwith.

For Petitioner : Mr.S.P.Vijay Nivas

For Respondents: Mr.D.Muruganandam

Additional Government Pleader

ORDER

The present writ petition has been filed for issuance of a Writ of Mandamus, directing the 1st respondent to return the petitioner's original driving licence bearing D.L.No.TN-63-198800000258 valid upto 04.05.2020 to the petitioner forthwith.

2.The petitioner is a driver in the Tamilnadu State Transport Corporation, Muthukulathur Branch, Ramanathapuram District. On 23.08.2018, the transport corporation bus driven by the petitioner involved in an accident, pursuant to which, a case in Crime No.121 of 2018 under Sections 279 and 304(A) was registered against the petitioner and the 2nd respondent seized the driving licence of the petitioner and handed over the same to the 1st respondent. Despite representation dated 27.08.2018, the 1st respondent did not return the driving licence of the petitioner. Hence, this writ petition.



3. According to the petitioner, no show cause notice was issued to him by the 1st respondent and that the 1st respondent has no authority to impound his driving licence without passing any order under Section 19(1) of the Motor Vehicles Act, 1988. Further, the prayer in the writ petition is covered by a Division Bench judgment in *P.Sethuram vs. The Licencing Authority, The Regional Transport Officer, Dindigul*, reported in 2010 Writ L.R. 100, wherein, the Division Bench has held as follows:-

"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 Section 19(1), under which the case of the appellant would fall.

11. The respondent has, in the impugned order, pre-concluded that issue that the appellant is guilty of rash and negligent driving even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19 (1)(c) it is necessary to show that the Motor Vehicle is used in the Commission of cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind.

12. In view of the above, the Writ Appeal is allowed, the order of the learned Judge is set aside and the writ petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not preclude the respondent from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19 (1) (f) are violated. No costs. Consequently, connected miscellaneous petition is closed."

4. In view of the aforesaid Division Bench judgment, a direction is issued to the first respondent to return the driving licence of the petitioner forthwith.



The writ petition is allowed with the aforesaid direction.
No costs.

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Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Regional Transport Officer,
Thiruverumbur,
Trichy District.
2. The Inspector of Police,
Navalpattu Police Station,
Trichy District.

+ 1 CC TO MR.SP.VIJAYANIVAS, ADVOCATE IN SR NO. 84674

BALA

BU/SV/SAR-IV : 25.09.2018 : 3P/4C

W.P(MD)No.19364 of 2018
17.09.2018