



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P (MD) No. 12688 of 2018

WEB COPY

K. Kathirvel

: Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Srirengam,
Trichy District.

: 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 No. TN 36 1997 0003764 to the petitioner forthwith.

For Petitioner

: Mr. C. Prakasam

For Respondent

: Mr. A. Muthukaruppan,

Additional Government Pleader

ORDER

The petitioner is a driver in the Tamil Nadu State Transport Corporation Limited, Coimbatore Region, Erode Division, Anthiyur Branch. On 17.04.2018, while he was driving a bus bearing Registration No. TN 33 N 2710, there was an accident in which, a two wheeler rider died. First Information Report was filed in Cr.No.63 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 police while registering the First Information Report and it was handed over to the respondent. The petitioner made a representation dated 24.04.2018 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 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, Srirengam, Trichy District, to return the original driving licence bearing No.TN 36 1997 0003764 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(CO)

/True Copy/

Sub Assistant Registrar

To

The Regional Transport Officer,
Regional Transport Office,
Srirengam,
Trichy District.

+1cc to Mr.C.Prakasam, Advocate Sr.No.68561
+1cc to SPECIAL GOVERNMENT PLEADER Sr.No.68644
Sml
MK/SKN RSK/SAR 4/20.06.2018/2P/4C