



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2018

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.13687 of 2018

A.Arunkumar : Petitioner

Vs.

The Licensing Authority /
Regional Transport Officer (Theni),
Office of the Regional Transport Office,
Theni, Theni 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-04-20080019594 forthwith to the petitioner.

For Petitioner : Mr.J.Selvam

For Respondent : Mr.B.Bhagavathi,
Government Advocate

ORDER

The petitioner is a driver in Thiruppur Depot of Tamil Nadu State Transport Corporation. On the basis of the complaint given by one Sivanandham, S/o.Rengasamy, dated 05.05.2018, alleging that the petitioner drove the vehicle bearing Registration No.TN-38-N-1590 in a rash and negligent manner and caused an accident, a case in Crime No.467 of 2018 was registered against the petitioner for the offences under Sections 279, 337 and 304(A) of the Indian Penal Code on the file of the Inspector of Police, Anupparpalayam Police Station. It is stated by the petitioner that the original licence was seized by the Inspector of Police and handed over to the respondent. The petitioner made a representation to the respondent for return of the original licence by his letter dated 14.06.2018. 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 - The Licensing Authority / Regional Transport Officer (Theni), Office of the Regional Transport Office, Theni, Theni District, to return the original driving licence bearing DL.No.TN-04-20080019594 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(AS)

/True Copy/



To

The Licensing Authority /
Regional Transport Officer (Theni),
Office of the Regional Transport Office,
Theni, Theni District.

+ 1 cc TO Mr.J.Selvam , Advocate in SR No. 70255
+ 1 cc TO The Special Government Pleader in SR No. 70504

SML

AE/PN/SAR1/09.07.2018/3P/4C

Order made in
W.P. (MD) No.13687 of 2018
28.06.2018