



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.(MD)No.17888 of 2018

WEB COPY

S.Gnanaraj

... Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office,
Kumbakonam,
Thanjavur District.

... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondent to return the driving license of the petitioner bearing D.L.No.TN45-200500016526 forthwith.

For Petitioner	:	Mr.S.Arunachalam
For Respondent	:	Mr.R.Murugan, Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking a Writ of Mandamus, directing the respondent to return the driving license of the petitioner bearing D.L.No.TN45-200500016526 forthwith.

2. The learned Counsel for the petitioner would submit that the petitioner is a driver in the Tamil Nadu State Transport Corporation and on 03.08.2018, while he was driving a bus bearing Registration No.TN-63-N-1374, there was an accident, in which, a motor cycle rider died. In this regard, a case was registered against the petitioner in Crime No.196 of 2018 under Section 304-A IPC. The learned Counsel would further state that the original licence of the petitioner was seized by the police and was handed over to the Motor Vehicle Inspector. Though the petitioner has made a representation to return his driving licence, the said request was not considered and therefore, the petitioner is before this Court.

3. The learned Additional Government Pleader, on instructions, would submit that the licence is in the custody of the respondent and so far, no action has been taken by him under Section 19 of the Motor Vehicles Act.

4. Heard the learned Counsel appearing on either side and perused the materials placed before this Court.



5. Admittedly, there was an accident involving the vehicle driven by the petitioner, but, the negligence of the petitioner is yet to be proved. As per Section 19 of the Motor Vehicles Act, 1988, the Licensing Authority is empowered to disqualify the licence holder or revoke the licence. As per Sub-Section (1) of Section 19, such power can be exercised only after giving an opportunity of hearing to the licence holder. As per Section 206 of the Motor Vehicles Act, 1988, the Police Officer has power to impound the document. As per Sub-Section (2) of Section 206 of the Act, the Police Officer or other person, on their behalf, authorised by the State Government is empowered to seize the licence held by such driver and forward it to the Court taking cognizance of the offence and the said Court shall on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgement given under Sub-Section (3). As per Sub-Section (3) of Section 206 of the Act, the Police Officer shall give to the person surrendering the licence a temporary acknowledgement therefor and such acknowledgement shall authorise the holder to drive until the licence has been returned to him or until such date as may be specified therein.

6. In view of Section 206 of the Motor Vehicles Act, 1988, the Police Officer ought to have forwarded the original licence of the petitioner to the Jurisdictional Magistrate, before whom, the petitioner can seek return of licence. But, in the instant case, the authorities, who have seized the licence of the petitioner, have not taken any action under Section 19 of the Act and have also not forwarded the licence to the Jurisdictional Magistrate. Without passing any order, they cannot retain the licence of the petitioner.

7. In such circumstances, this Court directs the respondent to send the driving licence of the petitioner to the Investigation Officer in Crime No.196 of 2018 on the file of the Ayyampettai Police Station, Thanjavur, who shall, in turn, issue an acknowledgement to the petitioner and then, produce the same before the Jurisdictional Magistrate so as to enable the petitioner to make an application for return of driving licence. The above said exercise shall be completed by the authorities within a period of one week from the date of receipt of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-III)

/True Copy/



To

1. The Regional Transport Officer,
The Regional Transport Office,
Kumbakonam, Thanjavur District.

2. The Inspector of Police,
Ayyampettai Police Station,
Thanjavur.

+1CC to Mr.S.Arunachalam, Advocate, SR.No.78534

+1CC to the Special Government Pleader SR.No. 78505

W.P. (MD) No.17888 of 2018
13.08.2018

GK

ES/RSK/SAR 2/24.08.2018/3P/5C