



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

W.P(MD)No.17859 of 2018

S.Suresh

.. Petitioner

Vs.

1.The Regional Transport Officer,
Theni,
Theni District.

2.The Motor Vehicle Inspector Grade-I,
O/o.Regional Transport Officer,
Theni,
Theni 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 petitioner's original Driving License No.TN 60 19930000343 forthwith to the petitioner, based on his representation dated 16.07.2018.

For Petitioner

: Mr.B.Jeyakumar

For Respondents

: Mr.R.Murugan,

Additional Government Pleader

ORDER

The petitioner is a driver in the Tamil Nadu State Transport Corporation, Madurai Division No.IV. On 26.10.2017, while he was driving a bus bearing Registration No.TN-57-N-2009, there was an accident in which, a motor cycle rider died. In this regard, a case was registered against the petitioner Cr.No.988 of 2017 under Section 304-A I.P.C. It is stated by the petitioner that the original licence was seized by the second respondent on 13.07.2018 stating that the license will be retained in his office, till the conclusion of the criminal case. The petitioner made a representation to the second respondent for return of the original licence by his representation dated 16.07.2018. Since the second respondent has not returned the licence, the petitioner is before this Court.

2. On instructions, the learned Additional Government Pleader appearing for the respondents would submit that the licence is in the custody of the second respondent and so far, no action has been taken by him under Section 19 of the Motor Vehicles Act.

<https://hcservices.ecourts.gov.in/hcservices/>

3. I have considered the submissions made on either side.



4. The admitted fact is that there was an accident involving the vehicle driven by the petitioner. 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 authorised in this behalf 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.

5. 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 licence was seized by the 2nd respondent. Till date, he has not taken any action under Section 19 of the Act. Without passing any order, he cannot retain the license of the petitioner.

6. In such circumstances, this Court directs the second respondent to send the driving licence of the petitioner to the Investigation Officer in Crime No.988/2017 on the file of the Inspector of Police, Theni Police Station, who shall, in turn, issue an acknowledgment 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 license. The above said exercise shall be completed by the respondents within a period one week from the date of receipt of a copy of this order.

7. This Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-I)



To

1.The Judicial Magistrate,
Theni.

2.The Regional Transport Officer,
Theni,
Theni District.

3.The Motor Vehicle Inspector Grade-I,
O/o.Regional Transport Officer,
Theni,
Theni District.

4.The Inspector of Police,
Theni Police Station,
Theni.

+1CC to Government Pleader in SR.No.78130.

+1CC to Mr.B.Jeyakumar Advocate in SR.No.78711.

GCG

DS RSK SKN SAR 1 ;23.08.2018; 3P/7C

Order made in
W.P(MD)No.17859 of 2018

11.08.2018