

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 19.09.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.20069 of 2018
and W.M.P. (MD) .No.17827 of 2018

P.Saravanan

... Petitioner

Vs.

- 1.The Licensing Authority,
Regional Transport Officer,
Madurai South,
Bye Pass Road,
Madurai-16.
- 2.The Motor Vehicle Inspector,
Regional Transport Office,
Transport Department
Peraiyur Road,
Usilampatti,
Madurai District.
- 3.The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus to direct the respondents to return the petitioner's original Driving Licence bearing D.L.No.TN37 19950002645 to the petitioner within a time limit that may be fixed by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.R.Murugan

Additional Government Pleader

ORDER

The petitioner is a driver in the Tamil Nadu State Transport Corporation (Madurai) Limited. On 06.09.2018, while he was driving a bus bearing Registration No.TN-58-N-2129, there was an accident in which, one person died. First Information Report was filed in Cr.No.201 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 third respondent police in the Police Station and it was forwarded to the second respondent. The second respondent, in turn, forwarded the same to the first respondent. The petitioner made a representation to the respondents for return of the original licence by his representation dated 14.09.2018. Since the respondents have not returned the licence, the petitioner is before this Court.



2. The learned Counsel for the petitioner would vehemently contend that the third 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 respondents, it is noted that the original driving licence of the petitioner is now in possession of the first 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 third 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 first respondent - Regional Transport Officer, Madurai South, Bye-Pass Road, Madurai-16, to return the original driving licence bearing D.L.No.TN37 19950002645 to the petitioner forthwith, on receipt of a copy of this order.

8. In fine, this writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //



To

1. The Licensing Authority,
Regional Transport Officer,
Madurai South,
Bye Pass Road,
Madurai-16.

2. The Motor Vehicle Inspector,
Regional Transport Office,
Transport Department
Peraiyur Road,
Usilampatti,
Madurai District.

3. The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.

+1 CC To MR.A.RAHUL, Advocate SR. NO.85309

W.P(MD)No.20069 of 2018

VS

TR/SV/SAR-III(19.09.2018)3P 5C