



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.19237 of 2018

M.Padikkasu

.. Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office,
Pudukkottai.

.. Respondent

PRAYER: Writ Petition has been under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondent to return the driving license of the petitioner bearing D.L.No.TN-05-19860003593 forthwith.

For Petitioner : Mr.S.Arunachalam
For Respondent : Mr.D.Muruganandham,
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, to direct the respondent to return the driving license of the petitioner bearing D.L.No.TN-05-19860003593 forthwith.

2.The petitioner is a driver in the Tamil Nadu State Transport Corporation (Kumbakonam) Limited. On 22.08.2018, while he was driving a bus bearing Registration No.TN-55-N-0435, there was an accident in which, a motorcycle rider died. In this regard, a case was registered against the petitioner in Cr.No.150 of 2018 under Section 304-A I.P.C. It is stated by the petitioner that his original driving licence was seized by the Police on the date of accident itself and thereafter, it was forwarded to the respondent herein. The petitioner made a representation to the respondent for return of the original licence by his representation dated 28.08.2018. Since the respondent has not returned the licence, the petitioner is before this Court.



3. On instructions, the learned Additional Government Pleader appearing for the respondent 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.

WEB COPY 4. I have considered the submissions made on either side.

5. 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.

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 licence was seized by the 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.

7. In such circumstances, this Court directs the respondent to send the driving licence of the petitioner to the Investigation Officer in Crime No.150/2018 on the file of the Inspector of Police, Ganesh Nagar Police Station, Pudukkottai, 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 within a period one week from the date of receipt of a copy of this order.



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

Sd/-

Assistant Registrar (CS-III)

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// True Copy //

Sub Assistant Registrar (CS-II)

To

1. The Regional Transport Officer,
The Regional Transport Office,
Pudukkottai.

2. The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai.

+1 CC To MR.S.ARUNACHALAM, Advocate SR. NO.83160

+1 CC TO The Special Government Pleader SR.NO.83096

Order made in
W.P(MD)No.19237 of 2018

GCG

TR/SV/SAR-II(18.09.2018) 3P 5C