

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

DATED : 17.09.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU**W.P(MD)No.19831 of 2018**

J.Jebastin Rajkumar

... Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Dindigul Road, Pirattiyur,
Trichy,
Trichy District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus to direct the respondent to return the petitioner's original Driving Licence bearing D.L.No.TN7219950004423 to the petitioner forthwith.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.R.Murugan
Additional Government Pleader

ORDER

The petitioner is a driver in a private concern, namely, City Transport Ltd., Coimbatore. On 25.07.2018, while he was driving a bus bearing Registration No.TN-66-X-5529, there was an accident in which, one person died. First Information Report was filed in Cr.No.194 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 police in the Police Station and it was forwarded to the respondent. The petitioner made a representation to the respondent for return of the original licence by his representation dated 03.09.2018. 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 Additional Government Pleader 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 - Regional Transport Officer, Regional Transport Office, Dindigul Road, Pirattiyur, Trichy, Trichy District, to return the original driving licence bearing D.L.No.TN7219950004423 to the petitioner forthwith, on receipt of a copy of this order.

8. In fine, this writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS-I)

To
The Regional Transport Officer,
Regional Transport Office,
Dindigul Road, Pirattiyur,
Trichy, Trichy District.

+1 CC To MR.C.PRAKASAM, Advocate SR. NO.84654
+1 CC TO The Special Government Pleader SR.NO. 84760

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GK

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