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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.05.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP (MD) No.12314 of 2019

and

W.M.P. (MD) No.9211 of 2019

S.Palanivel

... Petitioner

Vs.

1. The Regional Transport Officer,
Regional Transport Office,
Madurai South,
Madurai.

2. The Inspector of Police,
Traffic Investigation No.III Police Station,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to return the driving license No. TN 59 19930001195 to the petitioner.

For Petitioner : Mr.K.Sathish

For Respondents : Mr.N.Shanmuga Selvam
Additional Government Pleader

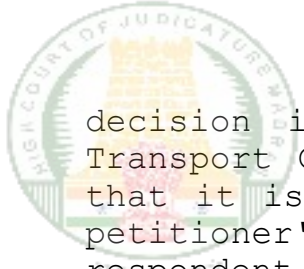
O R D E R

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. Mr.N.Shanmuga Selvam, learned Additional Government Pleader takes notice on behalf of the respondents.

3. The writ petitioner is working as a driver in Tamil Nadu State Transport Corporation (Madurai) Limited, Madurai Division, Ponmeni Branch. The bus bearing registration No.TN 58-N-2215 belonging to the Tamil Nadu State Transport Corporation was driven by him on 15.04.2019. At about 2.45 p.m., when the bus was nearing Madurai Arasaradi Road, a two-wheeler hit the bus as a result of which, the rider of the two-wheeler fell down and died. The Inspector of Police, Traffic Investigation No.III, Madurai District registered a case against the writ petitioner in Crime No.72 of 2019 for the alleged offences punishable under Section 279 and 304(A) of IPC. The case is still under investigation.

4. Mr.K.Sathish, learned counsel appearing for the petitioner contended that the original driving licence of the writ petitioner has been impounded by the first respondent. He also relied on the



decision in Mr.P.Sethuram Vs. the Licensing Authority, Regional Transport Officer, Dindigul reported in 2010 WLR 100 and contended that it is only the competent criminal Court that can impound the petitioner's driving license and that it is not open to the first respondent herein to do so.

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5. Mr.N.Shanmuga Selvam, learned Additional Government Pleader appearing for the respondents would contend that as per Section 19 of the Motor Vehicles Act, 1988, the licensing authority has the power to disqualify a driver from holding a driving licence or revoke such licence, if the licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard that he is using or has used a motor vehicle in the commission of a cognizable offence. He would further contend that the enquiry would be conducted within a reasonable time after giving due opportunity to the writ petitioner and prayed for dismissal of the present petition.

6. As per the decision in P.Sethuram Vs. the Licensing Authority, Regional Transport Officer, Dindigul reported in 2010 WLR 100 followed by a Single Bench of this Court in W.P(MD)No.338 of 2019, dated 07.01.2019, it has been held that the competent criminal Court alone can impound the petitioner's driving licence and that the Regional Transport Officer cannot impound the same unless the petitioner is found guilty of the offence alleged to have been committed by him.

7. In this case, the final report has not yet been filed and it is still under investigation. In the facts and circumstances of the case, the first respondent is directed to return the petitioner's original driving licence within a period of two weeks from the date of receipt of a copy of this order. The petitioner is also directed to co-operate with the enquiry which would be conducted by the respondents under Section 19(1) of the Motor Vehicles Act, 1988.

8. With the above directions, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

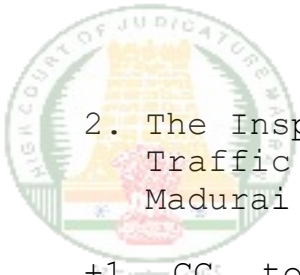
sd/
Assistant Registrar(VO)

/True Copy/

Sub Assistant Registrar

To

1. The Regional Transport Officer,
Regional Transport Office,
Madurai South,
Madurai.



2. The Inspector of Police,
Traffic Investigation No.III Police Station,
Madurai District.

+1 CC to Mr.P.BALASUBRAMANIAN, Advocate (SR-66207[F] dated
22/05/2019)

+1 CC to SPL GP (SR-66251[F] dated 24/05/2019)

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