

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 19.06.2019****CORAM:****THE HONOURABLE DR.JUSTICE ANITA SUMANTH****W.P. [MD]No.13172 of 2019**

WEB COPY

S.Thambidurai

... Petitioner

Vs.

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

2.The Inspector of Police,
Ambathurai Police Station,
Ambathurai,
Dindigul - 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 first respondent to return the driving license of the petitioner bearing D.L.No.TN 27-19910000821 to him forthwith.

For Petitioner	: Mr.S.Arunachalam
For Respondents	: Mr.S.Angappan
	Government Advocate

O R D E R

The Petitioner prays for issuance of writ of mandamus directing the first respondent to return the driving license of the petitioner bearing D.L.No. TN-27-19910000821, forthwith.

2.Heard the learned counsel for the petitioner and Mr.S.Angappan, learned Government Advocate, who takes notice on behalf of the respondents.

3.Learned counsel for the petitioner submits that the petitioner holds a driving license since April 1991. He is employed as a permanent Driver in the Tamilnadu State Transport Corporation (M) Ltd from the year 2000 and is presently employed as Selection Grade Driver at the Uppilipalayam Branch. On 19.05.2019, the petitioner was allotted bus bearing Registration No.TN-38-N-3312 running between Coimbatore and Tirunelveli via Tharapuram, Ottanchathiram, Dindigul and Madurai. The shift ran between 09.00 a.m., on 19.05.2019 and concluded at 03.30 p.m., on 20.05.2019. While this is so, it appears that there has been an accident involving a State Transport Corporation Bus about 02.10 p.m., at Transport Nagar near Dindigul, on 19.05.2019. Since the bus driven by the petitioner had passed the same location approximately at the same time, it was suspected that it was the bus driven by the petitioner, that had been involved in the aforesaid accident.



4. A case in Crime No.120 of 2019 has been registered against the petitioner before the Ambathurai Police Station. The allegation is that the two wheeler was hit by an unknown State Transport Corporation causing the demise of the Driver of the two-wheeler. The petitioner vehemently denies his involvement with the aforesaid untoward incident and also points to the fact that there is no material to sustain the allegation against him. The bus was called for and produced for inspection.

5. In spite of his denial of the aforesaid accident, the petitioners' license was seized by the authorities. Hence, the present writ petition praying for a mandamus directing the first respondent to return the driving license.

6. The provisions of Section 19 of the Motor Vehicles Act, 1988, (In short 'Act') empower the licensing authority to disqualify a person holding a driving license or to revoke the same in specified situations. Admittedly, none of the conditions are attracted to the present case.

7. Section 19 of the Motor Vehicles Acts reads as follows:

Power of licensing authority to disqualify from holding a driving license or revoke such license-

(1) If a licensing authority is satisfied, after giving the holder of a driving license an opportunity of being heard, that he -

(a) is a habitual criminal or a habitual drunkard; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(c) is using or has used a motor vehicle in the commission of a cognizable offence; or

(d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public; or

(e) has obtained any driving any driving license or a license to drive a particular class or description of motor vehicle by fraud or misrepresentation; or

(f) has committed any such act which his likely to cause nuisance or danger to the public, as may be prescribed by the Central Government, having regard to the objects of this Act; or

(g) has failed to submit to, or has not passed, the tests referred to in the provision to sub-section (3) of section 22; or

(h) being a person under the age of eighteen years who has been granted a learner's license or a driving



license with the consent in writing of the person having the care of the holder of the license and has ceased to be in such care,

it may, reasons to be recorded in writing, make an order-

(i) disqualifying that person for a specified period for holding or obtaining any driving license to drive all or any classes or descriptions of vehicles specified in the license; or

(ii) revoke any such license.

8. Learned counsel appearing for the respondents was asked to verify with the records and confirm whether any written orders have been passed by the authorities, after hearing the petitioner, suspending the license. He confirms on the basis of written instructions dated 18.06.2019, a copy of which is circulated, that no such speaking order has been passed in terms of Section 19(1) of the Act.

9. In the aforesaid circumstances, I see no justification for seizure of petitioners' license by the authorities at this stage.

10. I also draw support from an order of a Division Bench of this Court in the case of *S. Murugesan vs. the Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Srirangam, Trichy*, in W.A(MD)No.176 of 2009 dated 22.06.2009, wherein, while dealing a similar set of facts, the Bench has directed the return of the original driving license.

11. In the light of the above discussion, I direct the 1st respondent to return the driving license to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

12. I also clarify that this order will not, in any way, prejudice the initiation of any proceedings by the authorities for cancellation of license, and such proceedings, if any, shall run their own course and be concluded in accordance with law. The petitioner shall also cooperate in the event proceedings are initiated by the authorities and shall appear and cause production of the vehicle concerned, as and when required by the authorities.

13. In fine, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //



To

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

2.The Inspector of Police,
Ambathurai Police Station,
Ambathurai,
Dindigul - District.

+1 CC to SPL GP (SR-70061[F] dated 20/06/2019)

+1 CC to Mr.S.ARUNACHALAM, Advocate (SR-70098[F] dated 20/06/2019)

W.P. [MD] No.13172 of 2019

19.06.2019

mr

MK (04.07.2019) 5P 5C