



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.4114 of 2019

WEB COPY

U.Ganesan

: Petitioner

Vs.

1.The Licencing Authority /
Regional Transport Officer,
Regional Transport Office,
Valliyur, Tirunelveli District.

2.The Inspector of Police,
Panakudi Police Station,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to return the petitioner's driving licence bearing DL No.TN7420120008865 within a time limit that may be fixed by this Court.

For Petitioner : Mr.R.Venkateswaran

For Respondents : Mr.D.Muruganantham

Additional Government Pleader

O R D E R

The instant Writ Petition has been filed seeking for a Writ of Mandamus, to direct the first respondent to return the petitioner's driving license bearing DL No.TN7420120008865, within a time limit fixed by this Court.

2.It is the case of the petitioner that he is a driver with the Tamil Nadu State Transport Corporation, Nagercoil. According to him on 12.01.2019, when he was driving a bus belonging to the Tamil Nadu Sate Transport corporation Nagercoil Depot, the said bus met with an accident at Punniyavanapuram main road, causing death of one Thangaraj Nadar aged about 75 years. According to the petitioner, he has not violated the traffic rules and the accidents happened only due to the deceased Thangaraj Nadar. But, according to the petitioner, the second respondent arbitrarily impounded the petitioner's driving license and handed over the same to the first respondent for taking legal action under the Motor Vehicles Act. According to the petitioner, due to the impounding of the license by the respondent, the petitioner is unable to attend duty and earn his livelihood. Therefore, he has filed the instant writ petition seeking for a mandamus to the respondents, directing them to return the driving license to the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard Mr.R.Venkateswaran, learned Counsel for the



petitioner and Mr.D.Muruganantham, learned Additional Government Pleader for the respondents.

4.In the instant case, the petitioner has not been convicted for any offence till date. The second respondent has got the power to disqualify the petitioner from holding a driving license or revoke his license under Section 19 of the Motor Vehicles Act, 1998, but they have to follow the procedure contemplated therein. As per Section 19(1) of the Motor Vehicles Act, sufficient opportunity should be given to the holder of a driving license by the second respondent before his or her license is revoked or suspended.

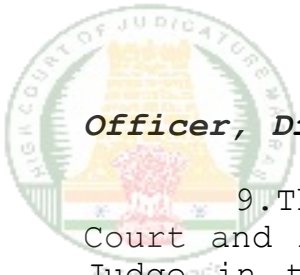
5.In the case on hand, even without proving the guilt of the petitioner, the respondents have impounded the license of the petitioner, who is a driver with the Tamil Nadu State Transport Corporation Limited. Eventhough, the learned Additional Government Pleader drew the attention of this Court to a notice dated 12.02.2019, sent by the second respondent to the petitioner, for the legal action initiated under section 19(1)(f) of the Motor Vehicles Act, it is an admitted fact that the petitioner is yet to be convicted of any criminal offence. But only a notice has been issued by the second respondent to the petitioner relating to the legal action initiated by them under Section 19(1)(f) of the Act. Further, 19(1)(f) of the Act deals with a person who has committed any act which is likely to cause nuisance or danger to public, as may be prescribed by the Central Government, having regard to the objects of this Act.

6.According to the learned Counsel for the petitioner, the action contemplated by the second respondent will not be attracted since the petitioner has not caused any nuisance or danger to the public as prescribed by the Central Government, having regard to the objects of the Motor vehicles Act. Therefore, according to the learned Counsel for the petitioner, even the action contemplated by the second respondent is not in accordance with law. According to him, if at all any action can be contemplated, it can be initiated only under Section 19(1)(c) of the Motor Vehicles Act, which states as follows:

"19(1)(c): is using or has used a motor vehicle in the commission of a cognizable offence;"

7.According to the petitioner, there is total non-application of mind by the first respondent for having issued a notice contemplating action under Section 19(1)(f) of the Motor Vehicles Act.

8.In a similar case, the learned Single Judge of this Court by his order dated 07.01.2019, in W.P.[MD]No.96 of 2019, directed return of the original driving license, since the petitioner's guilt in that case has not been established. The learned Single Judge has followed the Division Bench Judgment of this Court reported in **2010 WLR 100 (P.Sethuram Vs. The Licensing Authority, Regional Transport**



Officer, Dindigul), for coming to the said conclusion.

9. This Court is bound by the Division Bench judgment of this Court and is in agreement with the view taken by the learned Single Judge in the aforesaid order. The instant case is also one such case where before the petitioner is found guilty for the criminal offence, his original license has been impounded by the respondent.

10. In the result, this Court directs the first respondent to return the petitioner's original driving license bearing DL No. TN 7420120008865, within a period of one (1) week from the date of receipt of a copy of this order. However, it is made clear that the first respondent is at liberty to initiate legal action under Section 19 of the Motor Vehicles Act, 1989, or any other appropriate statutory provisions to disqualify or revoke the driving license of the petitioner, by affording adequate opportunity to the petitioner as and when any such action is initiated by the first respondent.

11. With the aforesaid direction, the Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar

MR

To

1. The Licencing Authority /
Regional Transport Officer,
Regional Transport Office,
Valliyur, Tirunelveli District.

2. The Inspector of Police,
Panakudi Police Station,
Tirunelveli District.

+1 CC to M/s. R. VENKATESWARAN, Advocate (SR-49541[F] dated
25/02/2019)

+1 CC to M/s. SPL GP (SR-49938[F] dated 26/02/2019)

W.P. [MD] No. 4114 of 2019

25.02.2019

DS/ /SAR- (15.03.2019) 3P 5C