

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

DATED: 28.02.2019

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**W.P. (MD) .No.4649 of 2019****and****W.M.P. (MD) Nos.3703 to 3705 of 2019**

A.Sakthivel

... Petitioner

-vs-

1) The Regional Transport Officer,
Dindigul.2) The Inspector of Police,
Ammaiyanaickanoor Police Station,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 1st respondent in Se.Mu.No.890/A2/19 dated Nil signed by the 1st respondent on 05.02.2019 quash the same and consequently to direct the respondents to forthwith return the petitioners original driving license bearing DL No.TN58 19980002939 to him within a time limit that may be fixed by this Court.

For Petitioner : Mr.S.Subramanian

For Respondents :Mr.N.Shanmugaselvam,
Additional Government Pleader**O R D E R**

The instant writ petition has been filed challenging the order dated 05.02.2019 passed by the first respondent and consequently seeking for a direction to the respondents to forthwith return the petitioner's original driving license bearing D.L.No.TN58 19980002939 within the time limit to be fixed by this Court.

2. It is the case of the petitioner that he is a driver with the Tamil Nadu State Transport Corporation (Madurai) Limited at its SIPCOT Branch with effect from 13.08.2010. It is also his case that while driving the bus belonging to the Tamil Nadu State Transport Corporation on 10.01.2019, the said bus met with an accident which resulted in the death of the person. Thereafter, an F.I.R., was registered against the petitioner but at the same time the second respondent impounded the license from the petitioner and handed over the same to the second respondent.



3. The petitioner, thereafter, challenged the impounding of the license by filing a writ petition before this court in W.P.(MD)No. 3489 of 2019 seeking for a direction to the respondents to forthwith return the petitioner's original driving license. By order dated 18.02.2019 in W.P.(MD) No. 3489 of 2019, this Court dismissed the writ petition as infructuous, but however gave liberty to the petitioner to challenge the impugned order of the first respondent dated 05.02.2019. As directed by this court, the petitioner has now filed a fresh petition in W.P.(MD) No. 4649 of 2019 which is being heard by this court today.

4. Heard Mr.S.Subramanian, learned counsel for the petitioner and Mr.N.Shanmugaselvam, learned Additional Government Pleader appearing for the respondents.

5. It is the case of the petitioner that no sufficient opportunity was given to him before the impugned order dated 05.02.2019 was passed by the first respondent suspending his driving license. Learned counsel for the petitioner drew the attention of this Court to the show cause notice dated 30.01.2019 issued by the first respondent calling upon the petitioner to submit his reply within a period of seven (07) days from the date of receipt of a copy of the said show cause notice.

6. He also drew the attention of this Court to the impugned order dated 05.02.2019, by which, the first respondent suspended the driving license of the petitioner. According to the learned counsel for the petitioner, even though seven days time was granted to the petitioner to submit his objections the impugned order was passed on 05.02.2019 itself (i.e.,) within five days from the date of the show cause notice. Therefore, according to him, the first respondent has violated the principles of natural justice by not affording sufficient opportunity to raise the objections available to the petitioner under law.

7. This Court has carefully perused the show cause notice dated 30.01.2019 as well as the impugned order dated 05.02.2019. As rightly contended by the learned counsel for the petitioner, the first respondent has not given sufficient opportunity to the petitioner to raise all objections available to him under law. Even though seven days time was granted for the petitioner to submit his reply, the first respondent, hurriedly, without even waiting for the seven days time, has passed the impugned order on 05.02.2019 itself suspending the driving license of the petitioner. Therefore, it is evident that the first respondent has violated the principles of natural justice. In such circumstances, this Court is of the considered view that the impugned order dated 05.01.2019 has to be quashed and the petitioner must be given sufficient opportunity by the first respondent to raise all his objections available to him under law and only thereafter, the first respondent should pass final orders. Further, it is the case of the petitioner that he is a driver with the Tamil Nadu State Transport Corporation and that the



accident had happened not due to his fault.

8. In the result, the impugned order dated 05.02.2019 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration and the first respondent shall after affording sufficient opportunity to the petitioner, including granting the right of personal hearing, shall pass final orders within a period of eight (08) weeks from the date of receipt of a copy of the order.

9. This Court is also of the considered view that as on date, the petitioner has not been convicted for any offence due to the alleged rash and negligent driving. In such circumstances, the original driving license cannot be retained by the first respondent unless and until the Criminal Court convicts the petitioner for the alleged offence mentioned in the F.I.R., in Crime No. 5 of 2019 on the file of the second respondent and therefore, the first respondent shall return the original driving license to the petitioner within a period of three days from the date of receipt of a copy of this order. With the aforesaid direction, this **Writ Petition is disposed of.** No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1) The Regional Transport Officer, Dindigul.

2) The Inspector of Police,
Ammaiyanaickanoor Police Station,
Dindigul District.

1 CC to M/s.A.RAHUL, Advocate (SR-50689[F] dated 28/02/2019)

+1 CC to M/s.SPL GP (SR-50914[F] dated 01/03/2019)

Order made in

W.P. (MD) .No.4649 of 2019

DS/ /SAR- (27.03.2019) 3P 5C