



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2019

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.5063 of 2019

&

W.M.P. (MD) No.4038 of 2019

C.Natarajan

... Petitioner

-vs-

- 1) The Regional Transport Officer,
Thoothukudi
- 2) The Motor Vehicle Inspector,
Thoothukudi.
- 3) The Inspector of Police,
Thoothukudi Central Police Station,
Thoothukudi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondent to forthwith return the petitioner's original driving license bearing DL.No.TN 69 Z19970001604 to him within a time limit that may be fixed by this Court.

For Petitioner : Mr.S.Subramanian
For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader

O R D E R

The instant Writ Petition has been filed for a Mandamus directing the respondent to return the petitioner's driving license bearing TN 69 Z19970001604 forthwith.

2. It is the case of the petitioner, that he is a driver with Tamil Nadu State Transport Corporation (Tirunelveli) Limited from 20.04.2015. According to him, the bus belonging to the Tamil Nadu State Transport Corporation (Tirunelveli) Limited bearing Registration No.TN-74-N-1532, in which, the petitioner was driving met with an accident on 20.01.2019 near the old bus stand, Thoothukudi. It is the case of the petitioner that on 20.01.2019, the police impounded the original driving license from the



petitioner and handed over the same to the respondent on the same day itself.

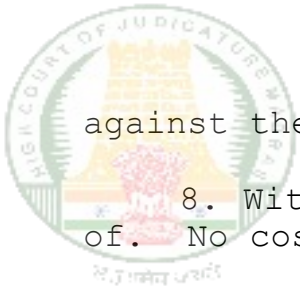
3. According to the petitioner, even though, the First Information Report (FIR) has been registered against the petitioner, by the police under Sections 297 and 304 (A) of IPC, the accident did not happen due to his fault. According to the petitioner, no show cause notice was issued to the petitioner nor was the petitioner given any opportunity to prove his innocence, but the original driving license was impounded from the petitioner by the police. In such circumstances, the petitioner has filed the instant Writ Petition seeking for a Mandamus.

4. Heard Mr.S.Subramanian, learned counsel appearing for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondent.

5. Admittedly in the instant case, till date, no show cause notice has been issued to the petitioner, even after the impounding of the original driving license from the petitioner. Section 19 of the Motor Vehicle's Act, 1998, empowers the Licensing Authority to disqualify the holder of the driving license or revoke his license, if any of the conditions mentioned therein have been violated by the holder of the driving license. The power under Section 19(1) of the Act can be invoked by the respondent only after giving an opportunity to the petitioner of being heard and only for reasons to be recorded in writing. In the instant case, the respondent has not informed the petitioner about the nature of his violation under Section 19 of the Motor Vehicle's Act 1998. No enquiry has been conducted by the respondent under Section 19 of the Motor Vehicle's Act, 1998.

6.The Division Bench Judgment of this Court in the case of **P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, Dindigul** reported in **2010 Writ L.R. 100** in similar set of facts, has held that the license cannot be impounded without proper enquiry. In the instant case, the accident occurred on 20.01.2019 and even after a lapse of more than 20 days, till date admittedly, no show cause notice has been issued to the petitioner. The petitioner being a driver of the Tamil Nadu State Transport Corporation (Tirunelveli) Limited which is a Government of Tamil Nadu undertaking cannot be deprived to continue with his avocation without any adverse finding against him with respect to the accident, which will affect his fundamental right to work.

7.This Court following the decision made by the Division Bench of this Court, cited *supra*, directs the respondent to return the petitioner's driving license bearing Dl.No.TN 69 Z19970001604 , within a period of one week from the date of receipt of a copy of this order. However, it shall not preclude the respondent from initiating any action, if any of the contingencies specified in Section 19(1) of the Act are satisfied for initiating prosecution



against the petitioner for violating the said conditions.

8. With the aforesaid directions, the **Writ Petition is disposed of**. No costs. Consequently, W.M.P.(MD) No.4038 of 2019 is closed.

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Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

- 1) The Regional Transport Officer,
Thoothukudi
- 2) The Motor Vehicle Inspector,
Thoothukudi.
- 3) The Inspector of Police,
Thoothukudi Central Police Station,
Thoothukudi.

+1 CC to M/s.A.RAHUL, Advocate (SR-51387[F] dated 04/03/2019)
+1 CC to M/s.SPL GP (SR-51716[F] dated 05/03/2019)

STS

TE : 26/03/2019 : 3P/6C

Order made in
W.P. (MD) .No.5063 of 2019
04.03.2019