



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2019

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.5064 of 2019

&

W.M.P. (MD) No.4039 of 2019

P.Michael Selvakumar

... Petitioner

-vs-1) The Regional Transport Officer,
Virudhunagar.2) The Inspector of Police,
Aviyur Police Station,
Aviyur, virudhunagar District,
(Crime No.34/19).

... Respondents

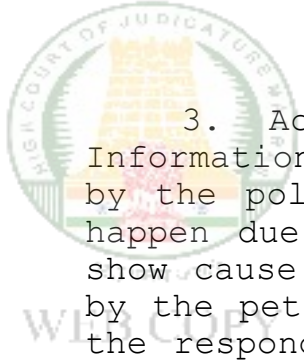
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus direct the respondents to forthwith return the petitioners original driving license bearing DL No.TN 69 Y1999 0002184 to him.

For Petitioner : S.Subramanian
For Respondent : Mr.A.Thiyagarajan,
Government Advocate

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 Y1999 0002184 forthwith.

2. It is the case of the petitioner, that he is a Driver cum conductor in the State Express Transport Corporation (Tamil Nadu) Limited at its Thoothukudi Branch from 20.04.2015. According to him, the bus belonging to the State Express Transport Corporation (Tamil Nadu) Limited bearing Registration No.TN-01-AN-1065, in which, the petitioner was driving met with an accident on 06.02.2019 while driving from Tiruchendur to Kozhikode. It is the case of the petitioner that on 08.02.2019, 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 Section 304 (A) of IPC, the accident did not happen due to his fault. According to the petitioner, even though show cause notice was issued on 08.02.2019 and reply was also sent by the petitioner on 16.02.2019, no final order has been passed by the respondent 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 counsel appearing for the petitioner and Mr.A.Thiyagarajan, learned Government Advocate appearing for the respondent.

5. Admittedly in the instant case, show cause notice has been issued to the petitioner, only 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 and no enquiry has been conducted by the respondent under Section 19 of the Motor Vehicle's Act, 1998 before impounding the driving license of the petitioner.

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 06.02.2019 and even after a lapse of more than 20 days, till date admittedly, no final order has been passed for the reply submitted by the petitioner on 16.02.2019. The petitioner being a Driver cum Conductor of the State Express Transport Corporation (Tamil Nadu) 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 Y1999 0002184, 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.4039 of 2019 is closed.

WEB COPY

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

- 1) The Regional Transport Officer,
Virudhunagar.
- 2) The Inspector of Police,
Aviyur Police Station,
Aviyur, virudhunagar District,
(Crime No.34/19).

+1 CC to M/s.A.RAHUL, Advocate (SR-51386[F] dated 04/03/2019)
+1 CC to M/s.SPL GP (SR-51713[F] dated 05/03/2019)

STS

TE : 26/03/2019 : 3P/5C

Order made in
W.P. (MD) .No.5064 of 2019
04.03.2019