



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) No. 5103 of 2019

and

W.M.P. (MD) No. 4066 of 2019

R. Manoharan

... Petitioner

Vs

1) The Regional Transport Officer,
Madurai South,
Madurai.

2) The Motor Vehicle Inspector,
Regional Transport Office,
Usilampatti.

3) The Inspector of Police,
Chekkanoorani Police Station,
Chekkanoorani,
Madurai District.
(Crime No. 101/19)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to forthwith return the original driving license of the petitioner's bearing D.L.No.TN 58-1997 0002887 to him within a time limit that may be fixed by this Court.

For Petitioner : Mr.S.Subramanian

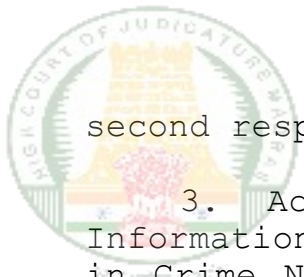
For Respondents : Mr.M.Jeyakumar,

Additional Government Pleader

O R D E R

The instant Writ Petition has been filed for a Mandamus directing the respondents to return the petitioner's driving license bearing D.L.No.TN 58-1997 0002887 forthwith.

2. It is the case of the petitioner, that he is a Driver with Tamil Nadu State Transport Corporation (Madurai) Limited, at its Usilampatti Branch from 01.01.2015. According to him, the bus belonging to the Tamil Nadu State Transport Corporation (Madurai) Limited bearing Registration No.TN-58-N-2305, in which the petitioner was driving met with an accident on 22.02.2019 while driving in the route between Madurai and Theni. It is the case of the petitioner that on 26.02.2019, the police impounded the original driving license from the petitioner and handed over the same to the



second respondent on the same day itself.

3. According to the petitioner, even though, the First Information Report (FIR) has been registered against the petitioner in Crime No.101 of 2019 by the police under Sections 279, 337 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 counsel appearing for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents.

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 respondents have 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 a license cannot be impounded without proper enquiry. In the instant case, the accident occurred on 22.02.2019 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 (Madurai) 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 D.L.No.TN 58-1997 0002887, 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.4066 of 2019 is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1) The Regional Transport Officer,
Madurai South,
Madurai.
- 2) The Motor Vehicle Inspector,
Regional Transport Office,
Usilampatti.
- 3) The Inspector of Police,
Chekkanoorani Police Station,
Chekkanoorani,
Madurai District.

+1cc to Mr.A.RAHUL, Advocate, SR.No. 51638

W.P. (MD) No.5103 of 2019

05.03.2019

STS

KK/SAR/04.04.2019/ 3P- 5C