



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSEW.P. (MD) .No.5298 of 2019

WEB COPY

R.Ananthan

... Petitioner

-vs-

1.The Regional Transport Officer,
The Regional Transport Office,
Sivagangai,
Sivagangi District.

2.The Motor Vehicle Inspector,
Sivagangai,
Sivagangai District.

3.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.

... Respondents

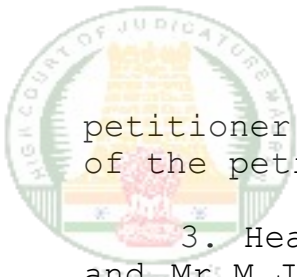
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the first respondent to return back the petitioner's Original Driving License in driving license No.TN 65 19970001859 to the petitioner by considering the petitioner's representation dated 14.02.2019 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthish

For Respondents : Mr.M.Jeyakumar
Additional Government Pleader**ORDER**

The instant writ petition has been filed for a mandamus to direct the first respondent to return back the petitioner's Original Driving License bearing No.TN 65 19970001859 to the petitioner by considering the petitioner's representation dated 14.02.2019

2.It is the case of the petitioner that he is employed as a Driver with the Tamil Nadu State Transport Corporation, Rameswaram Rural branch for the past six years. While driving the bus belonging to the Transport Corporation on 30.01.2019, the bus met with an accident which resulted in the death of a person who was driving a Tricycle. The First Information Report (F.I.R) was registered against the petitioner and his driving license was impounded by the third respondent who has handed over the same to the first respondent. Thereafter, the suspension order dated 31.01.2019 was passed by the first respondent suspending the driving license of the



petitioner. Aggrieved by the suspension order of the driving license of the petitioner, the instant writ petition has been filed.

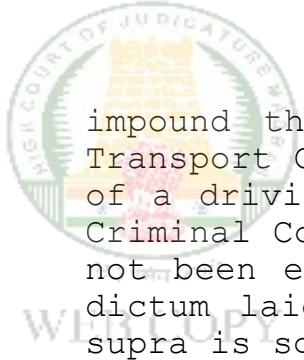
3. Heard Mr.M.S.Jeyakarthik, learned counsel for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader appearing on behalf of the respondents.

4. It is the case of the petitioner that without establishing the guilt against the petitioner for rash and negligent driving, the respondents have impounded the driving license of the petitioner without following the due procedure established under the law. The learned counsel appearing for the petitioner drew the attention of this Court to the Division Bench judgment of this Court in the case of **P.Sethuram vs., the Licensing Authority, Regional Transport Office and others** reported in **2010 Writ L.R. 100**, wherein the Division Bench directed the return of the driving license due to the fact that the Regional Transport Authority has preconcluded the issue that the holder of the driving license is guilty of rash and negligent driving even before the Criminal Court or the Motor Accident Claims Tribunal, had found the holder of the Driving license guilty of the offence. The relevant paragraph of the Division Bench judgement is extracted here under:-

"11.The respondent has, in the impugned order preconcluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor Vehicle is used the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind.

12.In view of the above, the Writ Appeal is allowed, the order of the learned Judge is set aside and the writ petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week 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 Clauses (a) to (h) of Section 19(1) of the Act, arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated. No costs. Consequently, connected miscellaneous petition is closed.
"

5. Learned counsel for the petitioner also drew the attention of this Court to the order passed by the learned Single Judge of this Court dated 23.01.2019 in W.P(MD) No.1199 of 2019 in the case of **S.R.Rajan vs., the Regional Transport Officer and other** following the Division Bench judgment referred supra, wherein the learned Single Judge has held that only the competent Criminal Court can



impound the driving license and it is not open to the Regional Transport Officials to impound the same when the guilt of the holder of a driving license has not been established before the Competent Criminal Court. In the case on hand also, the petitioner's guilt has not been established by a competent criminal Court. Therefore, the dictum laid down by the Division Bench of this Court referred to supra is squarely applicable for the petitioner also.

6. It is also the case of the petitioner that the Transport Corporation is willing to take back the petitioner and give him duty as a Driver. But since the driving license has been suspended, he is unable to rejoin duty.

7. For the foregoing reasons, this Court is of the considered view that the first respondent is directed to return the petitioner's original driving license bearing No. TN 65 19970001859 within a period of one(01) week from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Regional Transport Officer,
The Regional Transport Office,
Sivagangai,
Sivagangi District.

2.The Motor Vehicle Inspector,
Sivagangai,
Sivagangai District.

3.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.

+1cc to Mr.M.S.JEYAKARTHIK, Advocate, SR.No. 52028

W.P.(MD).No.5298 of 2019

RMI

KK/SAR-/08.03.2019/3P-5C