



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) No.6443 of 2019

WEB COPY

K.Adhisivakumar

... Petitioner

Vs

1) The Regional Transport Officer,
Tiruchirappalli.

2) The Motor Vehicles Inspector,
Thiruverumboor Unit
Office of RTO, Trichy,
Thiruverumboor,
Tiruchirappalli District.

3) The Inspector of Police,
Thiruverumboor Police Station,
Tiruchirappalli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents No.1 & 2 herein to return the original driving licence No. TN-49-19950002723 to the petitioner forthwith.

For Petitioner : Mr.D.Sivaraman

For Respondents : Mr.M.Jeyakumar,

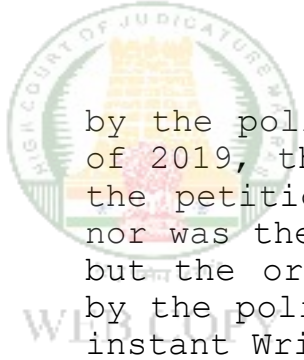
Additional Government Pleader

O R D E R

The instant Writ Petition has been filed for a Mandamus directing the respondents 1 & 2 to return the petitioner's driving license bearing D.L.No. TN-49-19950002723 forthwith.

2. It is the case of the petitioner, that he is a driver with Tamil Nadu State Transport Corporation (Kumbakonam) Limited from the year 2016. According to him, the bus belonging to the Tamil Nadu State Transport Corporation (Kumbakonam) Limited bearing Registration No.TN-68-N-0396 met with an accident on 09.02.2019 on Trichy Pattukottai route, when a mentally challenged person suddenly tried to cross the road without noticing the bus. It is the case of the petitioner that on 09.02.2019, the police impounded the original driving license from the petitioner and handed over the same to the 2nd 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 279 and 304 (A) of IPC in Crime No.53 of 2019, 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.D.Sivaraman, learned counsel appearing for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents 1 and 2.

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 the license cannot be impounded without proper enquiry. In the instant case, the accident occurred on 09.02.2019 and even after a lapse of more than one month, 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 (Kumbakonam) 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 respondents 1 and 2 to return the petitioner's driving license bearing D.L.No. TN-49-19950002723, within a period of two(02) weeks 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.

Sd/-

Assistant Registrar(T&P)

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Sub Assistant Registrar

To

1) The Regional Transport Officer,
Tiruchirappalli.

2) The Motor Vehicles Inspector,
Thiruverumboor Unit
Office of RTO, Trichy,
Thiruverumboor,
Tiruchirappalli District.

3) The Inspector of Police,
Thiruverumboor Police Station,
Tiruchirappalli District.

+1cc to M/s.D.Sivaraman, Advocate, SR.No.55023

+1cc to Special Government Pleader, SR.No.55423

Order made in
W.P. (MD) No.6443 of 2019
19.03.2019

SP/20.03.2019/ 3P/6C