



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) No.6444 of 2019

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Venkatesan

... Petitioner

Vs

1) The Regional Transport Officer,
Regional Transport Office,
Pudhukottai,
Pudhukottai District.

2) The Motor Vehicle Inspector,
Iluppur,
Pudhukottai District.

3) The Sub-Inspector of Police,
Vellanur Police Station,
Pudhukottai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 1st respondent to return back the petitioners original driving license in driving license No. TN 65 19990001273 to the petitioner by considering the petitioner's representation dated 13.03.2019 within the time limit that may be fixed by this Court.

For Petitioner : Mr.M.S.Jeyakarthik

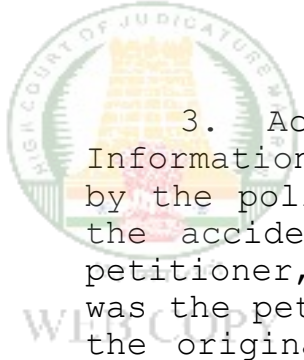
For Respondents : Mr.N.Shanmugaselvam

Additional Government Pleader

O R D E R

The instant Writ Petition has been filed for a Mandamus directing the 1st respondent to return the petitioner's original driving license bearing D.L.No. TN 65 19990001273 forthwith by considering the petitioner's representation dated 13.03.2019.

2. It is the case of the petitioner, that he is a driver with Tamil Nadu State Transport Corporation (Kumbakonam) Limited from the year 2013. According to him, the bus belonging to the Tamil Nadu State Transport Corporation (Kumbakonam) Limited bearing Registration No.TN-63-N-1569 met with an accident on 20.02.2019 while proceeding near to Sathiyamangalam bus stop, when a person viz., Suresh negligently crossed the road without noticing the bus. It is the case of the petitioner that on 21.02.2019, the police impounded the original driving license from the petitioner and handed over the same to the 1st 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 in Crime No.24 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.M.S.Jeyakarthik, learned counsel counsel appearing for the petitioner and Mr.N.Shanmugaselvam, learned Additional Government Pleader appearing for the respondents 1 & 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 respondents 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 respondents 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 20.02.2019 and even after a lapse of more than 25 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 (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 first respondent to return the petitioner's driving license bearing D.L.No. TN 65 19990001273, 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,
Regional Transport Office,
Pudhukottai,
Pudhukottai District.

2) The Motor Vehicle Inspector,
Iluppur,
Pudhukottai District.

3) The Sub-Inspector of Police,
Vellanur Police Station,
Pudhukottai District.

+1cc to Special Government Pleader, SR.No.53344

Order made in
W.P. (MD) No.6444 of 2019
19.03.2019

SP/20.03.2019/ 3P/5C