



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.8765 of 2019

N.Rathinasamy

... Petitioner

Vs

The Regional Transport Officer,
The Regional Transport Office,
Dindigul.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to return the driving license of the petitioner bearing D.L.No.TN 39-19940006363 to the petitioner forthwith.

For Petitioner : Mr.S.Arunachalam

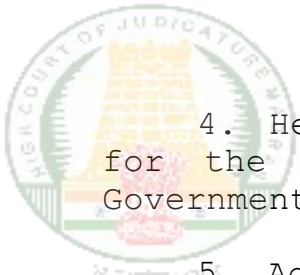
For Respondent : Mr.D.Muruganandham,
Additional Government Pleader

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 D.L.No.TN 39-19940006363 forthwith.

2. It is the case of the petitioner, that he is a driver with Tamil Nadu State Transport Corporation (Kovai) Limited from 25.06.1997. According to him, the bus belonging to the Tamil Nadu State Transport Corporation (Kovai) Limited bearing Registration No.TN-33-N-2644, in which, the petitioner was driving met with an accident on 18.03.2019 on the Palani-Dindigul Highway. It is the case of the petitioner that on 20.03.2019, 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 Sections 279 and 337 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.Arunachalam, learned counsel counsel appearing for the petitioner and Mr.D.Muruganandham,, learned Additional Government Pleader appearing for the respondent.

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 respondent has 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 18.03.2019 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 (Kovai) 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 39-19940006363, 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.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)



To

The Regional Transport Officer,
The Regional Transport Office,
Dindigul.

WEB COPY

+1CC TO MR.S.ARUNACHALAM, Advocate Sr. No. 60655
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 61017

Order made in
W.P. (MD) No. 8765 of 2019
11.04.2019

TR (23.04.2019) 3P 4C