



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :03.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.19158 of 2019

F.Rajesh Antony

: Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Pillaiyarpatti Post, Vallam Road,
Thanjavur.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondent to return the petitioner's original driving licence bearing DL.No.TN49 20140009129 to the petitioner forthwith.

For Petitioner

: Mr.C.Prakasam

For Respondents

: Mr.P.Kannithevan

Addl. Government Pleader

ORDER

The petitioner is a driver in a private concern namely Sharmila Bus Service, Thanjavur. On 30.06.2019, while he was driving a bus bearing Registration No.TN49BA 5809, there was an accident in which, rider of the two wheeler died. First Information Report was filed in Cr.No.103 of 2019 and a case was registered against the petitioner under Sections 279 and 304-A I.P.C. It is stated by the petitioner that during enquiry, the police seized the original driving licence of the petitioner. Thereafter, the same was handed over to the respondent. The petitioner approached the office of the respondent many times in person and submitted a representation to the respondent for return of the original licence on 03.07.2019. Since the respondent has not returned the licence, the petitioner is before this Court.

2. The learned Counsel for the petitioner would vehemently contend that the respondent has no authority to impound the driving licence even before passing the orders under Section 19(1) of the Motor Vehicles Act, 1988. Insofar as the criminal case is concerned, it has not reached finality and it is in the initial stage. The final report has not also been filed.

3. From the submissions made by the learned Additional Government Pleader appearing for the respondent, it is noted that the original driving licence of the petitioner is now in



possession of the respondent.

4. It is settled law that until the licence or any certificate issued by the competent authority is cancelled or suspended or revoked in the manner known to law, it is deemed to be in force. The impounding of licence will come only after passing of the order as per the relevant provisions of the statute, in this case, under Section 19 of the Motor Vehicles Act, 1988.

5. In similar circumstances, a Division Bench of this Court, in **Sethuraman v. Regional Transport Officer** reported in **2010 WLR 100**, held that even before passing the order under Section 19 of the Motor Vehicles Act, 1988, if driving licence is impounded, it amounts to pre-determination of the issue and the authority has no jurisdiction to do so.

6. I do also respectfully agree with the views of the Division Bench of this Court and in the instant case, the respondent has no power to impound the driving licence of the petitioner and retain it with him. The petitioner is a driver and he is entitled to use the licence till it is legally cancelled or suspended.

7. In such circumstances, a direction is issued to the respondent - The Regional Transport Officer, Regional Transport Office, Pillaiyarpatti Post, Vallam Road, Thanjavur, to return the original driving licence bearing DL.No.TN49 20140009129 to the petitioner forthwith, on receipt of a copy of this order.

8. In fine, this Writ Petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

To
The Regional Transport Officer,
Regional Transport Office,
Pillaiyarpatti Post, Vallam Road,
Thanjavur.

+1 CC to M/s.C. PRAKASAM, Advocate (SR-84978[F] dated 04/09/2019)

+1 CC to M/s.SPL GP (SR-85001[F] dated 04/09/2019)

vs