



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD) No.25362 of 2019

and

WMP(MD)No.21922 of 2019

T.Dharmaraj

... Petitioner

vs.

1.The Licensing Authority/
Regional Transport Officer,
Trichirapalli East,
Trichy District.

2.The Inspector of Police,
Traffic Investigation Wing,
North Police Station,
Trichy District.

3.The Motor Vehicle Inspector Grade - II,
Unit Office,
Thiruverumbur,
Trichy.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to return the petitioner's original driving License bearing DL.No. 19960000781 to the petitioner.

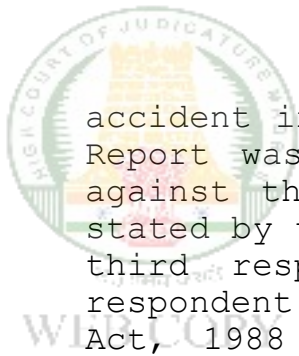
For Petitioner : Mr.A.Rahul

For Respondents : Mr.M.Rajarajan
Government Advocate

O R D E R

This writ petition is filed for a direction directing the respondents to return the petitioner's original driving License bearing DL.No. 19960000781.

2.The petitioner is a driver in the Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., On 08.11.2019, while he was driving a bus bearing Registration No.TN-68-N-1156, there was an



accident in which, a woman succumbed to injuries. First Information Report was filed in Cr.No.194 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 the original license was seized by the third respondent and the same was handed over to the first respondent for taking action under Section 19 of the Motor Vehicles Act, 1988 r/w Rule 21 of the Central Motor Vehicle Rules. The licensing authority has issued show cause notice dated 11.11.2019, for which, the petitioner has submitted his explanation on 18.11.2019 and the same is pending without passing orders. Therefore, the petitioner is before this Court, seeking the aforementioned relief.

3. The learned Counsel appearing for the petitioner would vehemently contend that the first 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 and no final report has been filed.

4. From the submissions made by the learned Government Advocate appearing for the respondents, it is noted that the original driving licence of the petitioner is now in possession of the first respondent.

5. 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.

6. 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.

7. I do also respectfully agree with the views of the Division Bench of this Court and in the instant case, the first 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.

8. In such circumstances, a direction is issued to the licensing authority/first respondent herein to pass orders on the petitioner's representation/explanation dated 18.11.2019 and take appropriate action as per his orders. Before that, he cannot impound the license and therefore, he is directed to return the license. However, this order will not stand in the way of implementing the



orders passed under Section 19(1) of the Motor Vehicles Act, 1988.
9. The writ petition is disposed of accordingly. No costs.
Consequently, WMP(MD)No.21922 of 2019 is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To

- 1.The Licensing Authority/
Regional Transport Officer,
Trichirapalli East,
Trichy District.
- 2.The Inspector of Police,
Traffic Investigation Wing,
North Police Station,
Trichy District.
- 3.The Motor Vehicle Inspector Grade - II,
Unit Office,
Thiruverumbur,
Trichy.

+1 CC to M/s.A.RAHUL, Advocate (SR-102336[F] dated 28/11/2019)
+1cc to M/s.Special Government Pleader,SR.No. 102661

W.P(MD) No.25362 of 2019
28.11.2019

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