



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD)No.25370 of 2019

and

WMP (MD)No.21932 of 2019

WEB COPY

V.Ethuraj

.. Petitioner

Vs.

1.The Licensing Authority/Regional Transport Officer,
Madurai South,
Madurai District.

2.The Motor Vehicle Inspector Grade - II,
Transport Department,
Alampatti,
Thirumangalam,
Madurai District.

3.The Inspector of Police,
Kallikudu Police Station,
Madurai District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to return the petitioner's original driving license bearing DL No.TN 67 19980000996 to the petitioner within a time.

For Petitioner

: Mr.A.Rahul

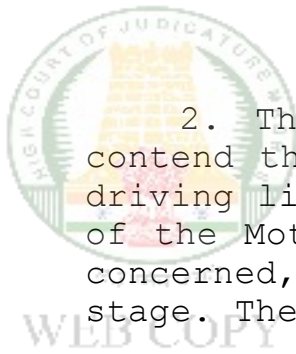
For Respondents

: Mrs.J.Padmavathi Devi

Special Government Pleader

ORDER

The petitioner is employed as a driver under the Tamil Nadu State Transport Corporation (Madurai) Ltd,. On 02.11.2019, while he was driving a bus bearing Registration No.TN 67 N 0516, there was an accident, in which, one passenger died. First Information Report was filed in Crime No.206 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 licence was seized by the second respondent and it was forwarded to the first respondent. The petitioner made a representation dated 21.11.2019 to the respondents for return of the original licence. Since the respondents have not returned the licence, the petitioner is before this Court.



2. The learned Counsel 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. The final report has not also been filed.

3. From the submissions made by the learned Special Government Pleader appearing for the respondents, it is noted that the original driving licence of the petitioner is now in possession of the first 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 ***P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul***, reported in ***2010 Writ L.R. 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 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.

7. In such circumstances, a direction is issued to the first respondent/Regional Transport Officer, Madurai South to return the original driving licence bearing DL No.TN 67 19980000996 to the petitioner forthwith, on receipt of a copy of this order.

8. In fine, this Writ Petition is ordered accordingly. No costs. Consequently, WMP(MD)No.21932 of 2019 is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)



mj

To

1.The Licensing Authority/Regional Transport Officer,
Madurai South,
Madurai District.

2.The Motor Vehicle Inspector Grade - II,
Transport Department,
Alampatti,
Thirumangalam,
Madurai District.

3.The Inspector of Police,
Kallikudi Police Station,
Madurai District.

+1 CC to M/s.A.RAHUL, Advocate (SR-102337[F] dated 28/11/2019)

+1 CC to M/s.SPL GP (SR-102780[F] dated 29/11/2019)

W.P. (MD)No.25370 of 2019

28.11.2019

KM/(16.12.2019) 3P 6C