



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WEB COPY

W.P.(MD)No.25345 of 2019

and

WMP(MD)No.21914 of 2019

M.Kesavan

.. Petitioner

Vs.

1.The Licensing Authority/Regional Transport Officer,
Thanjavur District,
Thanjavur.

2.The Motor Vehicle Inspector Grade - II,
Transport Department,
Thanjavur.

3.The Inspector of Police,
Pappanadu Police Station,
Thanjavur 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 being DL No.TN49 19820001910 to the petitioner.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

The petitioner is employed as a driver under the Tamil Nadu State Transport Corporation (Kumbakonam) Ltd,. On 23.09.2019, while he was driving a bus bearing Registration No.TN 68 N 0603, there was an accident, in which, one person came in a two wheeler died. First Information Report was filed in Crime No.198 of 2019 and a case was registered against the petitioner under Sections 279, 337 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 22.11.2019 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 Additional 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, Thanjavur to return the original driving licence bearing DL No.TN49 19820001910 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.21914 of 2019 is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Licensing Authority/Regional Transport Officer,
Thanjavur District,
Thanjavur.

2.The Motor Vehicle Inspector Grade - II,
Transport Department,
Thanjavur.

3.The Inspector of Police,
Pappanadu Police Station,
Thanjavur District.

+1 CC to M/s.A.RAHUL, Advocate (SR-102335[F] dated 28/11/2019)

+1 CC to M/s.Special Government Pleader (SR-102383[F] 28/11/2019)

W.P. (MD) No.25345 of 2019

28.11.2019

mj

SDS (13.12.2019) 3P 6C