



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.12.2019**

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

WEB COPY

W.P. (MD)No.27199 of 2019

G.Jayakumar

: Petitioner

Vs.

1.The Regional Transport Officer,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Keelathooval Police Station,
Keelathooval,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent to return the Petitioner's original Driving License bearing No.TN65 19930002191 valid upto 7.5.2024 within the stipulated time fixed by this Court.

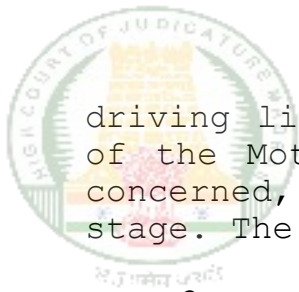
For Petitioner : Mr.SP.Vijay Nivas

For Respondents : Mr.M.Rajarajan
Government Advocate

ORDER

The petitioner is employed as a Driver in the Tamil Nadu State Transport Corporation Ltd., Paramakudi Branch. On 14.12.2019, while he was driving a bus bearing Registration No.TN 63N 1469, there was an accident, in which, two persons namely mother and son came in a two wheeler and the mother succumbed to death on the spot. First Information Report was filed in Crime No.132 of 2019 and a case was registered against the petitioner under Sections 279 and 304(A) of I.P.C. It is stated by the petitioner that the original licence was seized by the first respondent, while registering the First Information Report. Therefore, the petitioner made a representation dated 16.12.2019 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 its finality and it is in the initial stage. The final report has not also been filed.

3. 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.

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 - The Regional Transport Officer, Paramakudi, Ramanathapuram District, to return the original driving licence bearing No.TN65 19930002191 to the petitioner **forthwith**, on receipt of a copy of this order.

8. With the above direction, this Writ Petition is disposed of. No costs.

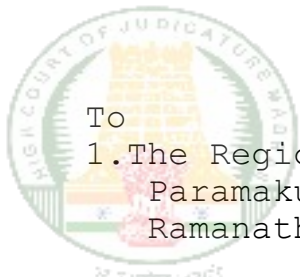
Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Regional Transport Officer,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Keelathooval Police Station,
Keelathooval,
Ramanathapuram District.

+1 CC to M/s.SP.VIJAYNIVAS, Advocate (SR-106282[F] dated 20/12/2019)

+1 CC to M/s.SPL.GP (SR-106496[F] dated 27/12/2019)

Order made in
W.P. (MD) No.27199 of 2019

Dated:
20.12.2019

KK/SAR/13.01.2020/3P-5C/