

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.7862 of 2020

M.Murugaiyan

Petitioner

vs.

1. The Regional Transport Officer,
Thiruvannamalai,
Thiruvannamalai District.
2. The Regional Transport Officer,
Nagapattinam,
Nagapattinam District.
3. The Inspector of Police,
Dusi Police Station,
Thiruvannamalai District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to return the petitioner's original license bearing No.TN5019960003288 valid upto 21.06.2027 within the stipulated time to be fixed by this Court.

For Petitioner : Mr.K.Nagendra Prasad

For Respondents: Mr.E.Balamurugan
Special Government Pleader

सतममेन जयते
O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the respondents to return the original driving licence of the petitioner which was seized by the 1st respondent after the petitioner was involved in a fatal accident.

2.The case of the petitioner is that he is a Driver working with Tamilnadu State Transport Corporation. On 05.11.2019, the petitioner who was driving the bus was involved in a fatal accident. The 3rd respondent registered an FIR in Crime No.612 of 2019 against the petitioner for offences under Sections 279 and 304 (A) of IPC. The original

driving licence was seized from the petitioner and it was handed over to the 1st respondent. The petitioner was also suspended from service.

3.The suspension period was over and in spite of the same, the petitioner is not able to join back in service, since the driving licence has not been returned back to the petitioner. According to the petitioner, unless and otherwise the petitioner is convicted for the offences and an order is passed under Section 19(1) of the Motor Vehicles Act, the original driving licence cannot be impounded permanently. The petitioner, therefore, made a representation to the 1st and 2nd respondents on 07.02.2020. Since the same did not evoke any response, the present writ petition has been filed before this Court seeking for appropriate directions.

4.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

5.The issue that is involved in the present writ petition is squarely covered by the earlier orders passed by this Court, wherein, this Court has consistently taken the view that, without passing orders under Section 19(1) of the Motor Vehicles Act, the original driving licence cannot be permanently impounded. It will be useful to extract one such order passed by this Court in W.P.(MD).No.3527 of 2020, dated 21.02.2020.

7.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.

8.In similar circumstances, a Division Bench of this Court, in P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul, reported in 201 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.

9.I do also respectfully agree with the views of the Division Bench of this Court and in the instant case, the respondents have 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.

10. In such circumstances, a direction is issued to the first respondent - The Regional Transport Officer, Trichy District, to return the original driving licence bearing D.L.No.TN5019920000594 to the petitioner forthwith, on receipt of a copy of this order.

6. The case of the petitioner is also squarely covered by the above order.

7. Under such circumstances, a direction is issued to the 1st respondent viz., the Regional Transport Officer, Thiruvannamalai District to return the original driving licence of the petitioner bearing No.TN 5019960003288 forthwith, on receipt of the copy of this order.

8. This writ petition is disposed of accordingly. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr
To

1. The Regional Transport Officer,
Thiruvannamalai,
Thiruvannamalai District.
2. The Regional Transport Officer,
Nagapattinam,
Nagapattinam District.
3. The Inspector of Police,
Dusi Police Station,
Thiruvannamalai District.

VBA (CO)
CB (25/09/2020)

W.P No.7862 of 2020