



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

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W.P. (MD)No.200 of 2020

P.Azhakesan

: Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office,
Vadakku Valliyoor,
Tirunelveli District.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent to return the petitioner's original Driving license bearing No.TN72V20060000171 within a time frame as may be fixed by this Court, by considering his representation dated 12.12.2019.

For Petitioner

: Mr.S.Muthumalai Raja

For Respondent

: Mr.M.Murugan

Government Advocate

ORDER

The petitioner is having Honda City Car bearing Registration No.TN69 AR 2175. On 06.12.2019, while he was driving a car with moderate speed from north to south in four ways NH Road near Panangulam, there was an accident in which, one Arumugam, died on the spot. First Information Report was filed in Crime No.154 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 Inspector of Moondradaippu Police Station, while registering the First Information Report and it was handed over to the respondent. Therefore, the petitioner made a representation dated 12.12.2019 to the respondent for return of the original licence. Since the respondent has not returned the licence, the petitioner is before this Court.

2. The learned Counsel for the petitioner would vehemently contend that the 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 Government Advocate appearing for the respondent, it is noted that the original driving licence of the petitioner is now in possession of the respondent.

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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 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 respondent - Regional Transport Officer, Regional Transport Office, Vadakku Vallliyoor, Tirunelveli District, to return the original driving licence bearing No.TN72V20060000171 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)

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<https://hcservices.ecourts.gov.in/hcservices/>



To
The Regional Transport Officer,
The Regional Transport Office,
Vadakku Valliyoor,
Tirunelveli District.

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+1 CC to MR.S.MUTHUMALAIRAJA, Advocate (SR-420[F] dated
07/01/2020)

+1 CC to SPL.GP (SR-691[F] dated 08/01/2020)

Order made in
W.P. (MD) No.200 of 2020

Dated:
07.01.2020

KM/(10.01.2020) 3P 4C