



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P (MD) No.2007 of 2020

and

W.M.P. (MD) No.1674 of 2020

W.Aruldoss

... Petitioner

Vs.

1) The Licensing Authority/
Regional Transport Officer,
Srirangam,
Trichy District.

2) The Inspector of Police,
Vathalai Police Station,
Trichy District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to return the petitioner's original driving license bearing DL.No.TN45 2000 0008677 to the petitioner within a time limit that may be fixed by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.Pandiarajan,
Additional Government Pleader

ORDER

Mr.Pandiarajan, learned Additional Government Pleader takes notice for the respondents.

2. By consent, the writ petition is taken up for disposal at the admission stage itself.

3. This Writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the respondents to return the petitioner's original driving license bearing DL.No.TN45 2000 0008677 to the petitioner forthwith.



4. The case of the petitioner is that he is employed as a Driver in the State Express Transport Corporation(Tamil Nadu) Limited at its Trichy Branch. On 16.01.2020, one Gunganesh lodged a complaint against the petitioner stating that on 15.01.2020 at about 9:45 p.m. he received an information through phone from an unknown person that his co-employee one Dumarathariray met with an accident and died and the accident was caused by the petitioner while the victim was walking on the left side of the road. Hence, a case in Crime No.12 of 2020 on the file of the second respondent was registered for the offence under Sections 279 & 304(A) of I.P.C. It is stated by the petitioner that the original licence was seized by the second respondent on 16.01.2020 and the same was handed over to the first respondent. Therefore, the petitioner made a representation dated 28.01.2020 to the respondents for return of original licence. Since the respondents have not returned the licence, the petitioner is before this Court.

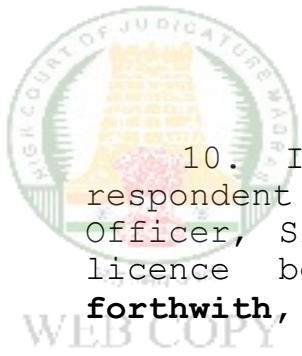
5. The learned Counsel for the petitioner would vehemently contend that the respondents have no authority to impound the driving licence even before passing the orders under Section 19(1) of the Motor Vehicles Act, 1988. Insofar as the criminal case is concerned, it has not reached finality and it is in the initial stage.

6. 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.

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 **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.

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 respondent - the The Licensing Authority/ Regional Transport Officer, Srirangam, Trichy District to return the original driving licence bearing DL.No.TN45 2000 0008677 to the petitioner **forthwith**, on receipt of a copy of this order.

11. With the above direction, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(P AND A)

/True copy/

/02/2020

Sub Assistant Registrar

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To:

1) The Licensing Authority/
Regional Transport Officer,
Srirangam,
Trichy District.

2) The Inspector of Police,
Vathalai Police Station,
Trichy District.

+1 cc Mr.A.RAHUL ,Advocate, SR.No.4283
+1cc to M/s.Special Government Pleader,SR.No. 4396

Order made in
W.P(MD)No.2007 of 2020

Dated:
31.01.2020

KK/SAR/20.02.2020/3P-5C