



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **07.02.2020**

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P. (MD)No.2393 of 2020

K.Soundarapandiyan

: Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office,
Theni.

: 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 driving licence of the petitioner bearing D.L.No.TN45-19960004007 to the petitioner forthwith.

For Petitioner

: Mr.S.Arunachalam

For Respondent

: Mrs.J.Padmavathi Devi,

Special Government Pleader

ORDER

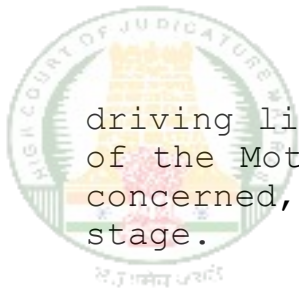
Mrs.J.Padmavathi Devi, learned Special Government Pleader takes notice for the respondent.

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 respondent to return the driving licence of the petitioner bearing D.L.No.TN45-19960004007 to the petitioner forthwith.

4. The case of the petitioner is that he is employed as a Driver in the Tamil Nadu State Transport Corporation(Kumbakonam) Limited. On 10.01.2020, while he was driving a bus bearing Registration No.TN 45 N 3987, there was an accident, in which, a person is said to have died. Hence, a case in Crime No.17 of 2020 on the file of Chinnamanur Police Sation, 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 respondent. Therefore, the petitioner made a representation dated 22.01.2020 to the respondent for return of original licence. Since the respondent has not returned the licence, the petitioner is before this Court.

5. 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.

6. 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.

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 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.

10. In such circumstances, a direction is issued to the respondent - the Regional Transport Officer, Theni, to return the original driving licence bearing D.L.No.TN45-19960004007 to the petitioner **forthwith**, on receipt of a copy of this order.

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

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



To **மேலாதிபதி**

The Regional Transport Officer,
The Regional Transport Office,
Theni.

+1 CC to MR.S.ARUNACHALAM, Advocate (SR-5507[F] dated
10/02/2020)

+1 CC to SPL GP (SR-5379[F] dated 10/02/2020)

Order made in
W.P. (MD)No.2393 of 2020
Dated:
07.02.2020

KM/(17.02.2020) 3P 4C