



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P. [MD]No.3527 of 2020

J.Kumarasamy

: Petitioner

Vs.

1.The Regional Transport Officer,
Trichy,
Trichy District.

2.The Inspector of Police,
Traffic Investigation Wing-South,
Trichy City.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to return my original driving license bearing No.TN5019920000594 valid upto 20.03.2021 within the stipulated time to be fixed by this Court.

For Petitioner

: Mr.SP.Vijay Nivas

For Respondents

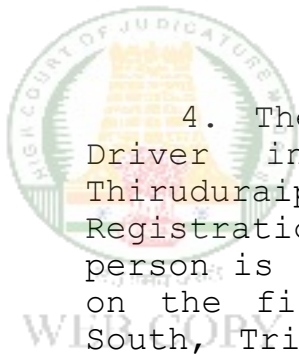
: Mrs.J.Padmavathi Devi,
Special Government Pleader

O R D E R

Mrs.J.Padmavathi Devi, learned Special 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 respondent to return the driving licence of the petitioner bearing No.TN5019920000594 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 at Thiruduraipoondi. On 01.02.2020, while he was driving a bus bearing Registration No.TN 68 N 0958, there was an accident, in which, a person is said to have died. Hence, a case in Crime No.16 of 2020, on the file of Inspector of Police, Traffic Investigation Wing-South, Trichy, 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 07.02.2020 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 Special 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 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.

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11. With the above direction, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MR

To

1.The Regional Transport Officer,
Trichy,
Trichy District.

2.The Inspector of Police,
Traffic Investigation Wing-South,
Trichy City.

+1 CC to M/s.SP.VIJAYNIVAS, Advocate (SR-7643[F] dated 21/02/2020)

+1 CC to M/s.SPL.GP (SR-7794[F] dated 24/02/2020)

Order made in

W.P.[MD]No.3527 of 2020

Dated: 21.02.2020

JMN(04.03.2020) 3P : 5C