



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2020

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN, J**

W.P. (MD)No.5738 of 2020

and

WMP. (MD).Nos.5001 & 5003 of 2020

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P.Thirupathi

... Petitioner

vs.

The Regional Transport Officer,
The Regional Transport Office,
Palani.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records from the respondent relating to his impugned order dated 19.02.2020, passed in Se.Mu.Aa.No.386/A1-2020, quash the same and consequently direct the respondent to return the driving license of the petitioner without any remarks.

For Petitioner : Mr.S.Arunachalam

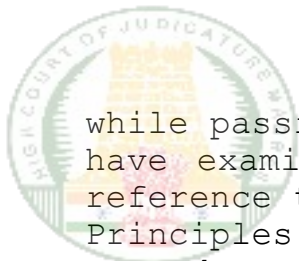
For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader

O R D E R

The impugned order was passed on 19.02.2020, by which, the driving license of the petitioner was confiscated for the period 19.01.2020 - 18.04.2020. The entire order emanated from the fact that the petitioner, who is working as Driver in Tamil Nadu State Transport Corporation (Kovai) Limited, from 06.02.2010 had met with an accident on 19.01.2020, when he was driving a bus bearing registration number TN 38 N 2866, between Mettupalayam and Theni at 3 kms before Ottanchathiram bus stand around 07.00 pm. Owing to the accident, one person unfortunately died.

2. I am not examining the causes of the accident or the circumstances surrounding the accident. However, it should be mentioned that an FIR in Cr.No.32/2020 had been registered by the Ottanchathiram Police Station, originally under Section 279, 337 of IPC, and subsequently altered to 304(A) IPC.

3. Thereafter, the impugned order came to be passed, whereby, the driving license of the petitioner had been confiscated, for the period as aforesaid from 19.01.2020 to 18.04.2020. Prior to passing of an impugned order, the petitioner was issued with a show-cause notice dated 19.01.2020. The petitioner states that he had given a reply on 14.02.2020. This reply had been received by the office of the respondent on 17.02.2020 at 16:52 hours. Therefore,



while passing the impugned order on 19.02.2020, the authority should have examined the representation. Very unfortunately, there is no reference to the representation/explanation given by the petitioner. Principles of natural justice requires that before any order was passed, the person should be heard, or at least, his representation/explanation should be considered. Violation of that basic principle would only entitle to setting aside of the order. This consequence also ensures in the present writ petition and the impugned order in the present writ petition.

4. However, an opportunity is afforded to the respondent to consider the representation dated 14.02.2020, and if necessary, invite the petitioner and grant him an opportunity for personal hearing and thereafter pass appropriate orders.

5. The learned counsel for the petitioner had placed reliance on the judgment of this Division Bench, (2010) Writ L.R.100, **P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul**, wherein also, an impugned order of similar nature has been passed without taking into consideration, the reply given by the appellant therein and after setting aside the impugned order, the Division Bench had directed the respondent to return the driving license of the appellant within a week of receipt of a copy of that particular order. A similar direction is also issued in this case. However, the respondent should complete their enquiry based on the representation given by the petitioner dated 14.02.2020 on or before 17.04.2020.

6. Accordingly, the writ petition is allowed. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Pkn.

To

The Regional Transport Officer,
The Regional Transport Office,
Palani.

+1 CC to M/s.SPL.GP (SR-12677[F] dated 20/03/2020)

+1 CC to M/s.S.ARUNACHALAM, Advocate (SR-12736[F] dated 20/03/2020)

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