



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.12.2020**

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD) .No.17810 of 2020

S.Babu Alagar

.. Petitioner

Vs.

1.The Regional Transport Officer,
Regional Transport Office,
Trichy - Namakkal Road,
Srirangam,
Thiruvanaikoil,
Trichy - 620 005.

2.The Inspector of Police,
Jeeyapuram Police Station,
Trichy District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to return the petitioner's original Driving Licence bearing No.TN-47 20100000103 to the petitioner forthwith.

For Petitioner	:	Mr.S.Prasath
For Respondents	:	Mr.C.Ramesh Special Government Pleader

ORDER

(This Matter was heard through the Video Conference)

This Writ Petition has been filed for a Mandamus seeking for a direction to the 1st respondent to return the petitioner's original Driving Licence bearing No.TN-47 20100000103, to the petitioner.

2.Heard Mr.S.Prasath, learned counsel for the petitioner and Mr.C.Ramesh, Special Government Pleader, who accepts notice on behalf of the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.It is the case of the petitioner that while he was working as a driver in a private concern, named Kumaran Transport, Karur,
<https://hcservices.ecourts.gov.in/hcservices/>

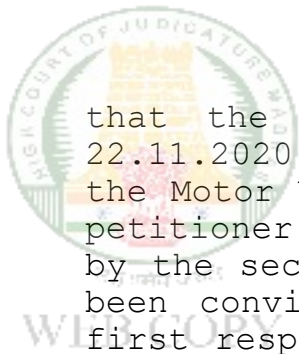


the bus, in which, he was driving, met with an accident on 22.11.2020 and an FIR was registered against him in Crime No.1072 of 2020 dated 22.11.2020, for the alleged offence under Section 279 and 304-A of IPC, by the second respondent police. According to the petitioner, he is no way connected with the accident and the second respondent has falsely registered a case against him. According to him, his Driving Licence has been illegally seized by the first respondent. He has given a representation on 24.11.2020, seeking for return of the original Driving Licence. However, according to the petitioner, the same has not been considered till date. It is the case of the petitioner that the first respondent has arbitrarily, without any authority under law, has seized the Driving Licence from the petitioner. In such circumstances, this writ petition has been filed.

5.The learned counsel for the petitioner drew the attention of this Court to a Judgment of the Division Bench of this Court in the case of *P.Sethuram Vs. The Licensing Authority, Regional Transport Office, Dindigul*, reported in 2010 Writ L.R. 100 and an order of this Court in the case of *S.Veerasamy Vs. Regional Transport Officer, Pudukkottai and two others*, dated 06.03.2019, made in *W.P.(MD).No.5289 of 2019*.

6.Referring to the aforesaid decisions, the learned counsel for the petitioner submits that the respondent has pre concluded the issue without passing any final order under Section 19 of the Motor Vehicles Act. The learned counsel for the petitioner also would submit that the petitioner has given his reply to the show cause notice issued by the respondent and no final orders has been passed till date. In such circumstances, the learned counsel for the petitioner would submit that the first respondent does not have the power to seize the Driving Licence of the petitioner.

7.It is well settled law that even before passing the final order under Section 19 of the Motor Vehicles Act, the first respondent does not have the power to seize the Driving Licence of a person even though he may be ultimately found that he was responsible for the cause of the accident. In the case on hand, it is the categorical stand of the petitioner that he is not responsible for the cause of the accident, while that be so, even without passing any final order under Section 19 of the Motor Vehicles Act, the first respondent has seized the Driving Licence of the petitioner. A Division Bench Judgment of this Court reported in 2010 Writ L.R. 100 as well as the order dated 06.03.2019, passed by a learned Single Judge of this Court in *W.P.(MD).No.5289 of 2019*, supports the case of the petitioner, wherein, it has been held that the first respondent does not have the power to seize the Driving Licence of a Driver who was involved in an accident, before passing final orders under Section 19 of the Motor Vehicles Act. In view of the settled position of law, this Court is of the considered view



that the seizure of the Driving Licence of the petitioner on 22.11.2020 is arbitrary and is not in accordance with Section 19 of the Motor Vehicles Act. Though FIR has been registered against the petitioner in Cr.No.1072 of 2020 under Section 279 and 304-A of IPC by the second respondent police, admittedly, as on date he has not been convicted for the said offences. This being the case, the first respondent ought not to have seized the Driving Licence from the petitioner even before passing final orders under Section 19 of the Motor Vehicles Act for impounding of Driving Licence.

8.For the foregoing reasons, this Court directs the first respondent to return the petitioner's original Driving Licence bearing No.TN-47 20100000103 to the petitioner, within a period of one week from the date of receipt of a copy of this order.

9.However, it is made clear that if in the final order to be passed by the first respondent under Section 19 of the Motor Vehicles Act, it is found that the petitioner is guilty of the alleged offence, the respondent is at liberty to impound the Driving Licence of the petitioner.

10.With the aforesaid direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (co)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Regional Transport Officer,
Regional Transport Office,
Trichy - Namakkal Road,
Srirangam,
Thiruvanaikoil,
Trichy - 620 005.



2.The Inspector of Police,
Jeeyapuram Police Station,
Trichy District.

**W.P (MD) .No.17810 of 2020
07.12.2020**

WEB COPY

VB (11.12.2020) 4P 3C