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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.18254 OF 2021

S.Panchavarnam

.. Petitioner

Vs

1. The Regional Transport Officer/
Licensing Authority,
Namakkal (south)
Namakkal District.

2. The Inspector of Police,
Mohanur Police Station,
Mohanur, Namakkal District.

.. Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the 1st respondent to return the petitioner's original driving license bearing No.TN6319850000533 within stipulated time to be fixed by this Court.

For Petitioner : Mr.SP.Vijay Nivas

For Respondent : Mr.U.Baranidharan
Government Advocate

O R D E R

On consent given by either side, the main writ petition itself is taken up for final hearing.

2.The present writ petition has been filed to direct the 1st respondent to return the petitioner's original Driving License bearing No. TN6319850000533.

3.The case of the petitioner is that he was working as Driver in the Tamil Nadu State Transport Corporation for the past 22 years and his services were made permanent. The petitioner was posted at Trichy depot.



4. On 21.07.2021, when the petitioner was driving the vehicle, there was an accident, as a result of which, a person who was driving the two-wheeler hit the bus and he died on the spot.

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5. A complaint came to be given, based on which, an FIR was registered against the petitioner by the Mohanur Police Station in Crime No.582 of 2021 on 21.07.2021 for an offence under Section 279 and 304(A) of IPC. The FIR is pending investigation. In the meantime, the investigation officer had seized the original driving license from the petitioner. The petitioner was also suspended from service.

6. The suspension period was over and in spite of the same, the petitioner is not able to join back in service, since the driving license has not been returned back to the petitioner. According to the petitioner, unless and otherwise the petitioner is convicted for the offences and an order is passed under Section 19(1) of the Motor Vehicles Act, the original driving license cannot be impounded permanently. The petitioner, therefore, made a representation to the 1st and 2nd respondents on 12.08.2021. Since the same did not evoke any response, the present writ petition has been filed before this Court seeking for appropriate directions.

7. Heard the learned counsel for the petitioner and the learned Government counsel appearing on behalf of the respondents.

8. The issue that is involved in the present writ petition is squarely covered by the earlier Division Bench judgement of this Court in the case of [P.Sethuraman Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Officer, Dindigul] in 2010 Writ Law reporter 100 . The relevant portions in the judgement are extracted hereunder :-

"5. Section 19(1) of the Motor Vehicles Act, 1988, empowers the Licensing Authority to disqualify a person for holding or obtaining any driving licence for a specified period or to revoke any such licence. Similarly, a Court which convicts a person for an offence under the Act, is empowered by Section 20(1) to disqualify such person from holding a driving licence for a specified period. Section 21 makes a driving licence become suspended, if the holder of the licence had been previously convicted of an offence punishable under Section 184 and a case had been registered against him on the allegation of causing the death or grievous injury to one or more persons by dangerous driving. Section 22 empowers the Court to



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cancel or suspend the driving licence, upon conviction of a person for an offence under Section 184.

8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a driving licence, if any of the contingencies prescribed in Clauses (a) to (h) of Sub Section (1) of Section 19 arises. Moreover, the power under Section 19(1) can be invoked only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.

9. But in the case on hand, the licence of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19(1) of the Act, after getting a report from the police. Therefore the impounding of the licence has actually preceded the issue of show cause notice.

10. Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall.

11. The respondent has, in the impugned order, pre-concluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor Vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind."

9. The case of the petitioner is also squarely covered by the



above order.

10. Under such circumstances, a direction is issued to the 1st respondent, viz., the Regional Transport Officer, Namakkal to return the original driving license of the petitioner bearing No. TN6319850000533 forthwith, on receipt of a copy of this order.

11. This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

RR

To

1. The Regional Transport Officer/
Licensing Authority, Namakkal (south)
Namakkal District.
2. The Inspector of Police,
Mohanur Police Station,
Mohanur, Namakkal District.

+1cc to the Government Pleader, S.R.No.44246

W.P.No.18254 of 2021

MG(CO)
CS/03/09/2021