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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

W.P.No.22744 of 2021
and
W.M.P.No.23965 of 2021

K.Balakrishnan,
S/o.Kunjurasu

.. Petitioner

Vs.

1. The Regional Transport Officer,
Transport Department, Chengalpattu.

2. The Inspector of Police,
H-3, Maraimalai Nagar Police Station,
Chengalpattu District.
(Crime No.949/2021).

.. Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondents to forthwith return the petitioner's original driving license bearing DL No.TN36 19970001300 to him within a time limit that may be fixed by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.U.Baranidharan
Government Advocate

O R D E R

This writ petition has been filed for the issue of a Writ of Mandamus directing respondents to forthwith return the petitioner's original license bearing DL No.TN36 19970001300 to him within a time stipulated by this Court.

2. The case of the petitioner is that he is working as a Driver in the State Transport Corporation. On 18.09.2021, an accident took place, in which the victim died in the hospital. A case was registered by the 2nd respondent in Crime No.949 of 2021 against the petitioner for offences under Sections 279, 337



and 304A of IPC. In the course of investigation, the second respondent seized the driving licence of the petitioner and the same has been handed to the first respondent for taking action against the petitioner under Section 19(4)(c) of the Motor Vehicles Act. The grievance of the petitioner is that the first respondent has not taken any steps to either issue a show cause notice or return back the original licence. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate direction.

3. Heard Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.U.Baranidharan, learned Government Advocate appearing for the respondents.

4. The issue involved in the present writ petition is covered by the earlier order passed by this Court in W.P.(MD) No.8792 of 2021 dated 29.04.2021. The relevant portions of the order are extracted hereunder.

"6.The issue that is involved in the present writ petition is squarely covered by the earlier orders passed by this Court, wherein, this Court has consistently taken the view that, without passing orders under Section 19(1) of the Motor Vehicles Act, the original driving licence cannot be permanently impounded. It will be useful to extract one such order passed by this Court in W.P.(MD). No.3527 of 2020, dated 21.02.2020.

"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 201 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



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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."

5. In view of the above, there shall be a direction to the first respondent to return the original Driving Licence No. TN36 19970001300 to the petitioner forthwith on receipt of a copy of this order. With the above directions, this writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

RR
To

1. The Regional Transport Officer,
Transport Department, Chengalpattu.
2. The Inspector of Police,
H-3, Maraimalai Nagar Police Station,
Chengalpattu District.

+1cc to the Government Pleader, S.R.No.55097

W.P.No.22744 of 2021

CP(CO)
SU(22/11/2021)