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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.22578 of 2021 & W.M.P.No.23804 of 2021

P.Sakthivel

...Petitioner

-Vs-

The Licensing Authority
377, Vellakkiraru Road
Thudiyalur
Coimbatore - 641 034.

...Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing respondent to forthwith return the petitioners original driving license bearing DL. NO.TN4320050001223 without any condition and without any endorsement and within a specified time as may be fixed by this Hon'ble Court.

For Petitioner	:	Mr.R.Krishnaswamy
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. TN4320050001223 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 12.07.2021, an accident took place, in which the victim died on the spot. A case was registered by the third respondent in Crime No.251 of 2021 against the petitioner for offences under Sections 279 and 304A of IPC. In the course of investigation, the third respondent seized the driving licence of the petitioner and the same has been handed over to the first respondent for taking action against the petitioner under Section 19(4)(c) of the Motor Vehicles Act. The respondent issued a show cause notice to the petitioner on 29.07.2021 and called upon the petitioner to explain as to why his driving license should not be



suspended. This show cause notice was purportedly issued under Section 19 of the Tamil Nadu Motor Vehicles Act. The petitioner gave a reply/explanation dated 06.09.2021. The petitioner once again made a representation on 11.09.2021 requesting for return of his original driving license. Since the same was not acted upon by the respondent, the present writ petition has been filed before this Court seeking for appropriate direction.

3. Heard Mr.R.Krishnaswamy, 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 authority has no jurisdiction to do so.

9.I do also respectfully agree with



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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 respondent to return the original Driving Licence No. TN4320050001223 to the petitioner forthwith on receipt of a copy of this order. The respondent shall await the final orders in the criminal proceedings and if the ingredients as provided under Section 19 of the Tamil Nadu Motor Vehicles Act, is satisfied, it will be left open to the respondent to initiate proceedings for suspension/ revocation of the driving license. This writ petition is accordingly allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KST

To

The Licensing Authority
377, Vellakkiraru Road
Thudiyalur
Coimbatore - 641 034.

+1CC to Mr.V.Ajoy Khose, Advocate, Sr.No.54216

+1CC to Mr.Government Pleader, Sr.No.54628

W.P.No.22578 of 2021

SPD (CO)

K.RK. (02.11.2021)