

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.23327 of 2021

B.Prakash

... Petitioner

-Vs-

1 The Inspector of Police
Traffic Investigation Wing
S13, Chitlapakkam Police Station
Chennai - 600 064.

2 The License Authority-cum-Regional
Transport Officer, Tambaram
Chennai - 600 045.

... Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing respondents to forthwith return the petitioners original license bearing DL. NO. TN2219910000089 issued by the RDO Tambaram, of the petitioner forthwith to the petitioner so as enabling him to join the duty in the Transport Corporation.

For Petitioner : Mr.S.Ravi

For Respondents : Mr.U.Baranidharan
Government Advocate

ORDER

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. TN2219910000089 forthwith so as to enable him to join duty in the Transport Corporation.

2. The case of the petitioner is that he is working as a Driver in the Metropolitan Transport Corporation. On 23.09.2021, an accident took place, in which the victim died. A case was registered by the third respondent in Crime No.269 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 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.Saravanan, 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 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. TN2219910000089 to the petitioner forthwith on receipt of a copy of this order. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

KST

To

- 1 The Inspector of Police
Traffic Investigation Wing
S13, Chitlapakkam Police Station
Chennai - 600 064.
- 2 The License Authority-cum-Regional
Transport Officer, Tambaram
Chennai - 600 045.

+1cc to Mr.S.Ravi, Advocate, S.R.No.56561
+1cc to the Government Pleader, S.R.No.56694

W.P.No.23327 of 2021

MG(CO)
SB(23/11/2021)