



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.3332 of 2021

and

W.M.P. (MD)No.2681 of 2021

WEB COPY

V.Saravanakumar

... Petitioner

Vs

1.The Regional Transport Officer,
Transport Department,
Government of Tamil Nadu,
Regional Transport Office,
Dindigul-624 001.

2.The Inspector of Police,
Oddanchatram Police Station,
Oddanchatram,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the record in pursuant to the impugned order passed by the first respondent in TN57/2021/93, dated 02.02.2021 and to quash the same as illegal and consequently, directing the first respondent to return the petitioner's original driving license bearing No.TN60 1993 0002188 to the petitioner forthwith.

For Petitioner : Mr.S.Prasanth

For Respondents : Mr.C.Ramar

Additional Government Pleader

ORDER

Heard the learned counsel on either side. With the consent of learned counsel on either side, the writ petition is taken up for disposal at the admission stage itself.

2.The petitioner is working as driver in TNSTC. On 12.01.2021, the vehicle driven by the petitioner met with a fatal accident. Crime No.17 of 2021 was registered on the file of the Oddanchatram Police Station for the offences under Sections 279 and 304(A) of IPC. The petitioner's driving license was seized. The second respondent handed over the petitioner's original driving license to the first respondent. The first respondent issued show cause notice dated 19.01.2021. The petitioner filed W.P.(MD)No.1624 of 2021 in the nature of writ of mandamus seeking return of the said driving license. In the mean while, the impugned order has been passed.



3.It has been held time and again that the culpability or otherwise of the petitioner will have to be necessarily determined only by the jurisdictional Criminal Court. In the case on hand, only an FIR has been registered. Therefore, the first respondent ought not have taken the decision to suspend the petitioner's driving license. The case on hand is covered by the Hon'ble Division Bench decision of the Madras High Court reported in 2010 WLR 100.

4.I went through the contents of the show cause notice. The said show cause notice reads that the personal hearing will be provided to the petitioner. But then, no such personal hearing was provided to the petitioner. Thus, there is a clear violation of the requirement set out in Section 19(1) of the Motor Vehicles Act. The Hon'ble Division Bench in the aforesaid decision has held that the license can be suspended only after giving an opportunity of hearing. The licensing authority had passed an order only based on the copy of the FIR registered against the petitioner. Except the said material, there is no other material available. On the strength of the FIR alone, the licensing authority could not have come to the conclusion that Section 19(1)(d) & (f) are attracted against the petitioner herein. There is a clear non application of mind and on this ground, the order impugned in the writ petition is quashed. The Writ Petition is allowed. The first respondent is directed to return the petition mentioned original driving license to the petitioner forthwith and without any delay. The second respondent is directed to expedite the investigation in Crime No.17 of 2021 registered on his file and file the final report at the earliest. I make it clear that merely because I have given a direction to file the final report, it should not be taken adversely against the petitioner herein. I am directing the second respondent to expedite the investigation and nothing else.

5.With these observation and direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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

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correct copy, shall be the responsibility of the advocate/litigant concerned.

To கனம் உரிமை

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Transport Department,
Government of Tamil Nadu,
Regional Transport Office,
Dindigul-624 001.

2.The Inspector of Police,
Oddanchatram Police Station,
Oddanchatram,
Dindigul District.

+1 CC to M/s.SPL GP (SR-6918[F] dated 24/02/2021)

W.P. (MD)No.3332 of 2021
22.02.2021

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