



WEB COPY

W.P.(MD)NO.3604 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.3604 of 2021 and
W.M.P. (MD)No.2927 of 2021

Raja

... Petitioner

Vs.

1. The Regional Transport Officer,
O/o. Regional Transport Office,
Theni,
Theni District.

2. The Inspector of Police,
Gandamanur Vilakku police station,
Theni District.
(Crime No.648 of 2020)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the first respondent in SE.MU.AA.No.29485/E2/2020 dated 01.02.2021 and to quash the same as illegal and consequently to direct the first respondent to return the original Driving License bearing DL.No.TN 6020000001797 to the petitioner forthwith, after removing the endorsement of 'license cancelled'.

For Petitioner	: Mr.M.S.Jayakarthish
For Respondents	: Mr.S.Angappan, Government Advocate.

O R D E R

Heard the learned counsel on either side.

2. The petitioner is a driver working in the Transport Corporation. The vehicle driven by him met with fatal accident on 18.12.2020. His original driving license was also suspended by the first respondent for a period of six months. Questioning the same, this writ petition has been filed.

3. The learned Government Advocate submitted that the petitioner is very much having an appeal remedy and that therefore, this writ petition is not maintainable.



4. He also stated that when a First Information Report has been registered against the petitioner and it is seen that the petitioner had driven the vehicle recklessly causing the accidental death, the first respondent rightly suspended the petitioner's license. According to the learned Government Advocate, Section 19(3) of the Motor Vehicles Act, the authorities are very much having power and competent to pass the impugned order of suspension.

5. I am unable to agree with the stand taken by the respondent.

6. As rightly pointed out by the learned counsel appearing for the petitioner, the issue on hand is no longer *res integra*. The Hon'ble Division Bench in the decision reported in (2010) 2 MLJ 778 (*P.Sethuram V. The Licensing Authority, The Regional Transport Officer*) had held that the authority pre-concluded the issue that the petitioner is guilty of rash and negligent driving, even before the competent criminal Court/the Motor Accident Claims Tribunal decided the issue. That was also a case where the authority had suspended the driving license of the petitioner. This decision has been followed in a catena of decisions. The petitioner has enclosed an order dated 01.07.2016 made in W.P.No.18994 of 2016 (*M.Somasundaram V. The Licensing Authority-cum- The Regional Transport Officer*) in the typed set of papers. The case on hand is identical.

7. Therefore, the order impugned in this writ petition is quashed. This writ petition stands allowed.

8. The respondents are directed to return the petition mentioned original driving license to the petitioner immediately and without any delay. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

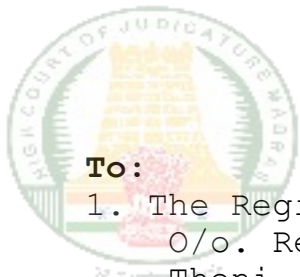
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/ /2021

Sub Assistant Registrar(CS)

PMU

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



To:

1. The Regional Transport Officer,
O/o. Regional Transport Office,
Theni,
Theni District.

2. The Inspector of Police,
Gandamanur Vilakku police station,
Theni District.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-9526[F] dated 09/03/2021

+1 CC to M/s.SPL GP (SR-10161[F] dated 10/03/2021)

W.P. (MD) No. 3604 of 2021
05.03.2021

SR(CO)

TR(17.03.2021) 3P 5C