



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.4690 of 2021

M.Kannan

... Petitioner

Vs.

1.The Licensing Authority,
Regional Transport Officer,
Srivilliputhur,
Virudhunagar District.

2.The Licensing Authority,
Regional Transport Officer,
Alampatti, Thirumangalam,
Madurai.

3.The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.

4.The Branch Manager,
Thirumangalam Branch,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, direct the respondents 1 and 2 to return the petitioner's original driving license bearing DL.No.TN 58 19980000774, forthwith to the petitioner enable to join the duty before the 4th respondent corporation, within the time stipulated by this Court.

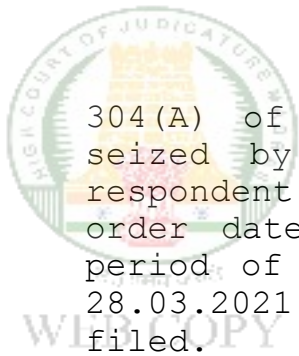
For Petitioner : Mr.Sharavanan.A.Mu

For Respondents : Mr.B.Bhagavathi,
Government Advocate.

ORDER

Heard the learned counsel on either side. With their consent, the writ petition is taken up for final disposal.

2.The petitioner is working as a driver in the fourth respondent corporation. On 25.12.2020, he was driving the bus bearing registration No.TN 58 N 2374 on Rajapalayam to Madurai and Madurai to Salem route. At about 11.50 a.m, the bus met with an accident leading to registration of Crime No.753 of 2020 on the file of the third respondent for the offences under Sections 279, 337 and



304(A) of I.P.C. The petitioner's original driving license was seized by the third respondent and handed over to the first respondent. Thereafter, the first respondent passed the impugned order dated 25.01.2021 suspending the petitioner's license for a period of three months. The three months period will expire on 28.03.2021. Questioning the same, this writ petition has been filed.

3.It has been held in several decisions that the first respondent cannot prejudge the issue. The negligence or otherwise of the petitioner will have to be established only before the jurisdictional Criminal Court or the Claims Tribunal. That apart, it is seen that the impugned order has been passed without hearing the petitioner. The Hon'ble Division Bench of this Court in the decision reported in **2010 Writ L.R. 100 (P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul)** has held that the licensing authority cannot pre-conclude the issue regarding rash and negligent driving, even before the Criminal Court or Motor Accident Claims Tribunal goes into the issue. Even to invoke Section 19(1)(c) of the Motor Vehicles Act, it is necessary to show that motor vehicle was used for commission of cognizable offence. That apart opportunity of personal hearing has to be granted. Since these procedural infractions are found in the impugned order, the same is set aside. The writ petition is allowed. The respondents 1 to 3 are directed to return the petitioner's original driving license to the petitioner immediately and without any delay. No costs.

Sd/-

Assistant Registrar (CS III)

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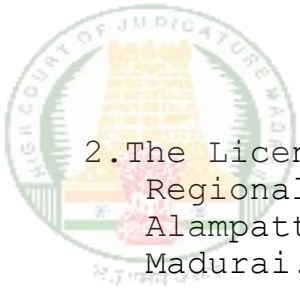
Sub Assistant Registrar(CS)

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 Licensing Authority,
Regional Transport Officer,
Srivilliputhur,
Virudhunagar District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Licensing Authority,
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3.The Inspector of Police,
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4.The Branch Manager,
Thirumangalam Branch,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Madurai.

+1 CC to M/s.SPL GP (SR-10131[F] dated
10/03/2021)

+1 CC to M/s.A.MU.SHARAVANAN, Advocate (SR-10241
[F] dated 11/03/2021)

**W.P (MD) No. 4690 of 2021
09.03.2021**

SGS (CO)
KK (11.03.2021) 3P 7C