



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.5363 of 2021

B.Sakthivel

... Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office (Madurai - North),
Madurai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent to return the driving license of the petitioner bearing D.L.No.TN-60-19480000947 forthwith.

For Petitioner : Mr.Arunachalam.S

For Respondent : Mr.G.Arjunan,
Government Advocate.

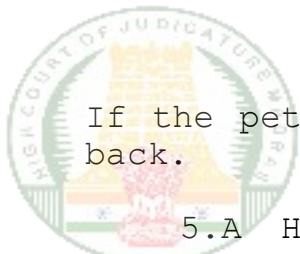
ORDER

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

2.The petitioner is employed as a driver in the Tamil Nadu State Transport Corporation (Madurai) Limited. The bus driven by him was involved in a fatal accident on 31.01.2021. In this regard, Crime No.58 of 2021 was registered against the petitioner on the file of Vadipatti police station for the offence under Sections 279, 337 and 304(A) of I.P.C. The petitioner's driving license has been seized. Seeking its return, this writ petition has been filed.

3.When the matter was taken up for hearing, the learned Government Advocate submitted that show cause notice has been issued to the petitioner on 09.02.2021 and without even responding to the show cause notice, the writ petition has been filed.

4.Though objections raised by the learned Government Advocate appears to be sound, I am of the view that the impounding or suspension or cancellation of the petitioner's license can be resorted to only after finding the petitioner's guilty of negligence. It is only the jurisdictional Criminal Court or the Claims Tribunal that can decide the issue. It may not be open to an administrative authority to give any finding on this issue. Particularly when the investigation is still pending. At the same time, if the petitioner's license is impounded and not returned to the petitioner, he will not be able to discharge his duty as driver.



If the petitioner is found innocent later, the clock cannot be put back.

5.A 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 as follows:-

"The respondent has, in the impugned order, pre-concluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor Vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind."

6. Respectfully following the same, the order impugned in the writ petition is quashed. The writ petition is allowed. The respondent is directed to return the petition mentioned original driving license to the petitioner immediately and without any delay. No costs.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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:

The Regional Transport Officer,
The Regional Transport Office (Madurai - North), Madurai.

+1 CC to M/s.SPL GP (SR-11503[F] dated 16/03/2021)

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