



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.5365 of 2021

A.Rathinapandi

... Petitioner

Vs.

1.The Regional Transport Officer,
Regional Transport Office,
Theni District.

2.The Inspector of Police,
Jeyamangalam Police Station,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 1st respondent to hand over the petitioner's license on the basis of the petitioner's representation dated 02.03.2021, within the time stipulated by this Court.

For Petitioner : Mr.Rajaram.A

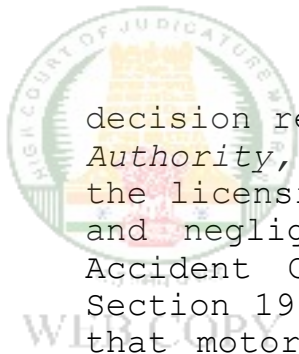
For Respondents : Mr.M.Rajarajan,
Additional Government Pleader.

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 a private company. When he was driving the company's vehicle on 24.01.2021, it was involved in a fatal accident. In this regard, Crime No.13 of 2021 was registered on the file of the second respondent for the offence under Section 304(A) of I.P.C. As a result, the petitioner's driving license has been impounded. The first respondent has also issued show cause notice dated on 04.02.2021 calling upon the to appear and give his explanation. As on date, no final order has been passed. In the meanwhile, this writ petition has been filed seeking return of the driving license.

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.

4. Another learned Judge of this Court in the decision reported in 2015 (2) CTC 626 (R.Ravi Vs. The Regional Transport Officer) followed the decision in P.Sethuram's Case.

5. 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

// 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:

1. The Regional Transport Officer,
Regional Transport Office,
Theni District.

2. The Inspector of Police,
Jeyamangalam Police Station,
Theni District.

+1 CC to M/s.A.RAJARAM, Advocate (SR-11133[F] dated 15/03/2021)
+1 CC to M/s.SPL GP (SR-11528[F] dated 16/03/2021)

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