



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.5765 of 2021

and

W.M.P. (MD)No.4539 of 2021

WEB COPY

V.Nagarajan

... Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office,
District Collectorate,
Dindigul.

... 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 petitioner's original driving license within a time limit that may be fixed by this Court.

For Petitioner : Mr.Xavier.G.M

For Respondent : Mr.C.Ramar,
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 the Tamil Nadu State Transport Corporation (Madurai) Limited, Periyakulam Branch. The bus driven by him was involved in a fatal accident. In this regard, Crime No.44 of 2021 has been registered on the file of Batlagundu police station. In this regard, show cause notice was issued on 15.02.2021. The petitioner has also given his reply. Final orders are yet to be passed. In the meanwhile, this writ petition has been filed seeking return of the license.

3.It is true that even before final order could be passed, the petitioner has moved this Court. However, waiting for the final order to be passed may not really be necessary. The case is only pending at the FIR stage as of now. The Claims Tribunal is yet to pronounce on the guilt of the petitioner. The Criminal Court has not decided the issue. Therefore, when the jurisdictional Courts are yet to make any pronouncement, it may not be open to the respondent to find the petitioner guilty and impound the license.

4.A Hon'ble Division Bench of this Court in the decision

<https://hcservices.courtsgov.in/hcservice/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."

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. Consequently, connected miscellaneous petition is closed.

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:
The Regional Transport Officer,
The Regional Transport Office,
District Collectorate,
Dindigul.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-11305[F] dated 16/03/2021)

W.P (MD) No.5765 of 2021
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NA (CO)

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