



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6704 of 2021

WEB COPY

M.Ramachandran

... Petitioner

-Vs-

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

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondent to return the driving license of the petitioner bearing D.L.No.TN58-19970004315 forthwith.

For Petitioner : Mr.S.Arunachalam
For Respondent : Mrs.S.Srimathy
Special Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the Special Government Pleader appearing for the respondent. With the consent of learned counsel on either side, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is a driver employed in TNSSTC (Madurai) Limited. When he was driving the vehicle bearing Registration No.TN 58N 2458 on 04.03.2021, it was involved in fatal accident. Crime No.145 of 2021 was registered on the file of the Ottacnchathiram Police Station for the offences under Sections 279, 337 & 304(A) of IPC. The petitioner's driving license has since been seized. Seeking its return, the writ petition came to be filed.

3.The learned Special Government Pleader appearing for the respondent would point out that the petitioner has been served with show cause notice dated 09.03.2021 and that he has given a reply on 13.03.2021 and that the petitioner can as well wait for final order to be passed. She would point out that the petitioner has rushed to this Court at the show cause notice stage itself.

4. Though objections raised by the learned Special Government



Pleader 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 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 (T&P)

// 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,
Dindigul.

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+1 CC to M/s.SPL GP (SR-13632[F] dated 25/03/2021)

W.P.(MD)No.6704 of 2021

MJ(CO)
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