

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7512 of 2021

S.Janagarajan

... Petitioner

Vs.

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

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to return the driving license of the petitioner bearing D.L.No.TN 20Z 19940000644 forthwith.

For Petitioner : Mr.Arunachalam.S

For Respondent : Mrs.M.Rajeswari,
Government Advocate.

WEB COPY
ORDER

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

2.The petitioner is employed as a driver in the Tamil Nadu State Transport Corporation (Madurai) Limited. On 24.03.2021, the bus driven by him was involved in a fatal accident. Therefore, the petitioner's original driving license was seized by the jurisdictional police and handed over to respondent. Seeking its return, this writ petition has been filed.

3.The learned Government Advocate would submit that the respondent is yet to initiate proceeding under Section 19 of the Motor Vehicles Act. She therefore submitted that the writ petition has been prematurely filed.

4.The FIR was registered only on 24.03.2021. Therefore, there is prospect of the Criminal Court making any pronouncement on the guilt of the petitioner in the near future. Likewise, the Claims Tribunal also is not going to decide the issue in the near future. Hence, the respondent cannot predetermine, when there is no definitive pronouncement by the Claims Tribunal or the jurisdictional Criminal Court.

5.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 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.

सत्यमेव जयते 01.04.2021

Index : Yes / No

Internet : Yes/ No

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Note : Issue order copy on 08.04.2021.

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.

G.R.SWAMINATHAN, J.

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To:

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



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