



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2021

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD).No.8792 of 2021
and W.M.P.(MD).No.6611 of 2021

N.Ilayaraja

... Petitioner

Vs.

1.The Regional Transport Officer,
Transport Department, Sivagangai.

2.Motor Vehicle Inspector,
Regional Transport Office,
Sivagangai.

3.Inspector of Police,
Town Police Station, Sivagangai.
(Crime No.121/2021)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, to direct the respondents to forthwith return the petitioner's original driving license bearing DL No.TN 63 - 1999 0000001 to him, within a time limit that may be fixed by this Court.

For Petitioner : Mr.A.Rahul

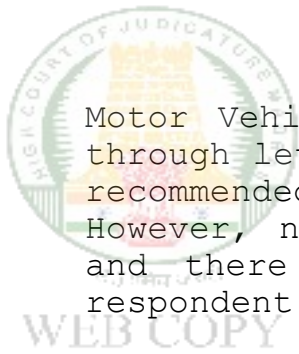
For Respondent : Mr.V.Anand for R1 to R3
Government Advocate

ORDER

This writ petition has been filed for the issuance of writ of mandamus, directing the respondents to return the original Driving License to the petitioner, within the time limit fixed by this Court.

2.The case of the petitioner is that he is working as a driver in Tamil Nadu Transport Corporation, Sivagangai Depot. On 06.03.2021, a fatal accident took place and as a result of the same, an FIR came to be registered by the third respondent in Crime No.121 of 2021 for the offences under Sections 279 and 304 A of IPC.

3.The further case of the petitioner is that the third respondent seized the Driving Licence of the petitioner on 08.03.2021 and handed over the same to the first respondent for taking action against the petitioner under Section 19 (4) (c) of the



Motor Vehicles Act. It is also stated that the third respondent through letter, dated 10.03.2021, addressed to the second respondent recommended for suspending the Driving License of the petitioner. However, no show cause notice has been received by the petitioner and there is no further proceedings on the side of the first respondent.

4.The petitioner made a representation to the respondents on 21.04.2021, seeking for the return of the original Driving License. Since the same was not considered, the present Writ petition has been filed before this Court, seeking for appropriate directions.

5.Heard Mr.A.Rahul, learned counsel for the petitioner and Mr.V.Anand, learned Government Advocate, for the respondents.

6.The issue that is involved in the present writ petition is squarely covered by the earlier orders passed by this Court, wherein, this Court has consistently taken the view that, without passing orders under Section 19(1) of the Motor Vehicles Act, the original driving licence cannot be permanently impounded. It will be useful to extract one such order passed by this Court in W.P.(MD). No.3527 of 2020, dated 21.02.2020.

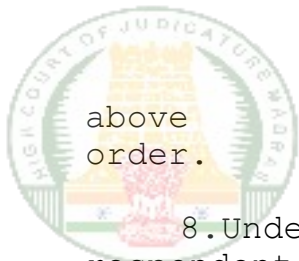
"7.It is settled law that until the licence or any certificate issued by the competent authority is cancelled or suspended or revoked in the manner known to law, it is deemed to be in force. The impounding of licence will come only after passing of the order as per the relevant provisions of the statute, in this case, under Section 19 of the Motor Vehicles, Act, 1988.

*8.In similar circumstances, a Division Bench of this Court, in **P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul**, reported in **201 Writ L.R.100**, held that even before passing the order under Section 19 of the Motor Vehicles Act, 1988, if driving licence is impounded, it amounts to pre-determination of the issue and the authority has no jurisdiction to do so.*

9.I do also respectfully agree with the views of the Division Bench of this Court and in the instant case, the respondents have no power to impound the driving licence of the petitioner and retain it with him. The petitioner is a driver and he is entitled to use the licence till it is legally cancelled or suspended.

10.In such circumstances, a direction is issued to the first respondent - The Regional Transport Officer, Trichy District, to return the original driving licence bearing D.L.No.TN5019920000594 to the petitioner forthwith, on receipt of a copy of this order."

<https://hcservices.ecourts.gov.in/hcservices/> 7.The case of the petitioner is also squarely covered by the



above
order.

8. Under such circumstances, a direction is issued to the 1st respondent viz., the Regional Transport Officer, Transport Department, Sivagangai District, to return the original driving licence of the petitioner bearing DL No.TN 63 - 1999 0000001, forthwith, on receipt of the copy of this order.

9. This writ petition is disposed of accordingly. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

TM
To

1. The Regional Transport Officer, Transport Department, Sivagangai.
2. Motor Vehicle Inspector, Regional Transport Office, Sivagangai.
3. Inspector of Police, Town Police Station, Sivagangai.

+1 CC to M/s.A.RAHUL, Advocate (SR-18227[F] dated 30/04/2021)

+1 CC to M/s.SPL GP (SR-18287[F] dated 30/04/2021)

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29.04.2021

GS (05.05.2021) 3P 6C