



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.9431 of 2021

and

W.M.P (MD)No.7157 of 2021

WEB COPY

R.Chinnadurai

... Petitioner

Vs.

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

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent in show-cause No.TN57/2021/380 dated 03.05.2021, quash the same and consequently direct the respondent to return the petitioner's driving licence and to drop the action against him.

For Petitioner

: Mr.G.M.Xavier

For Respondent

: Mr.P.Thilak Kumar,

Standing Counsel

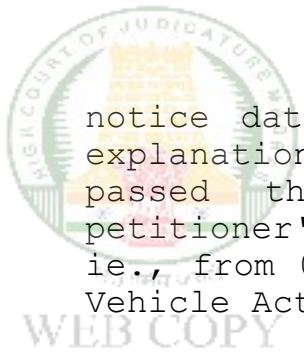
ORDER

This writ petition has been filed by the petitioner seeking for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent in show-cause No.TN57/2021/380 dated 03.05.2021, quash the same and to direct the respondent to return the petitioner's driving licence and to drop the action against him.

2.The brief facts of the case are as follows:

(i) The petitioner is a Driver in the Tamil Nadu State Transport Corporation(Madurai) Ltd. On 21.03.2021, while he was driving a bus bearing Registration No.TN 57 N 2049, there was an accident in which, one person died. First Information Report was filed in Crime No.195 of 2021 and a case was registered against the petitioner under Sections 279 and 304(A) of I.P.C., on the file of the Natham Police Station.

(ii) It is stated by the petitioner that the original driving licence was seized by the Inspector of Police, Natham Police Station and it was forwarded to the respondent. Subsequently, a show-cause



notice dated 19.04.2021 was issued to the petitioner calling for explanation from the petitioner. Thereafter, the respondent passed the impugned order dated 03.05.2021 suspending the petitioner's driving licence for a period of two months and 29 days ie., from 01.04.2021 to 30.06.2021 under Section 19(1) of the Motor Vehicle Act. Hence, the petitioner is before this Court.

3. The learned counsel for the petitioner would vehemently contend that without considering the explanation submitted by the petitioner, the respondent has passed the impugned order. Insofar as the criminal case is concerned, it has not reached finality and it is in the initial stage.

4. From the submissions made by the learned Standing Counsel appearing for the respondent, it is noted that the original driving licence of the petitioner is now in possession of the respondent.

5. 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.

6. In similar circumstances, a Division Bench of this Court, in **Sethuraman v. Regional Transport Officer** reported in **2010 WLR 100**, held that 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 to 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."

7. I do also respectfully agree with the views of the Division Bench of this Court and the petitioner is a Driver and he is entitled to use the licence till it is legally cancelled or suspended.

8. In the result, this writ petition is allowed and the impugned order passed by the respondent in show-cause No.TN57/2021/380 dated 03.05.2021, is hereby quashed and a direction is issued to the respondent, to return the original driving licence



to the petitioner forthwith, on receipt of a copy of this order.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

WEB COPY // True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

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.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-19709[F] dated 21/06/2021)

+1 CC to M/s.SPL GP (SR-19901[F] dated 22/06/2021)

W.P(MD)No.9431 of 2021
21.06.2021

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