



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.9739 of 2021

and

W.M.P(MD)No.7441 of 2021

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X.Vijay Daniel

... Petitioner

Vs.

1.The Regional Transport Officer,
Office of the RTO,
Trichy West, Pirattiyur,
Trichy - 620009.

2.The Inspector of Police,
TIW - Traffic Investigation Wing - (North),
Trichy City, Trichy.
(Cr. No.71 of 2021)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, directing the respondents to return the original driving licence of the petitioner bearing No.TN 45 20080010280 to the petitioner forthwith without any adverse endorsement.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.P.Thilak Kumar,

Counsel for Government of Tamil Nadu

ORDER

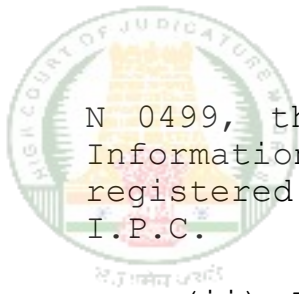
This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus directing the respondents to return the original driving licence of the petitioner bearing No.TN 45 20080010280 to the petitioner forthwith without any adverse endorsement.

2. Mr.P.Thilak Kumar, learned Standing Counsel for the Government accepts notice on behalf of the respondents.

3. By consent, the main writ petition is taken up for final disposal at the admission stage itself.

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

(i) The petitioner is a Driver in the Tamil Nadu State Transport Corporation, Kumbakonam bit, Trichy Division. On 20.03.2021, while he was driving a bus bearing Registration No.TN 67



N 0499, there was an accident in which, one person died. First Information Report was filed in Crime No.71 of 2021 and a case was registered against the petitioner under Sections 279 and 304-A I.P.C.

(ii) It is stated by the petitioner that the original licence was seized by the second respondent police in the Police Station and it was forwarded to the first respondent. Subsequently, on 10.05.2021, the petitioner made a representation to the respondents for return of his original licence. Since the respondents have not returned the licence, the petitioner is before this Court.

5. The learned counsel for the petitioner would vehemently contend that the second respondent has no authority to impound the driving licence even before passing the orders under Section 19(1) of the Motor Vehicles Act, 1988. Insofar as the criminal case is concerned, it has not reached finality and it is in the initial stage. The final report has not also been filed.

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

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 **Sethuraman v. Regional Transport Officer** reported in **2010 WLR 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 second respondent has 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, to return the original driving licence bearing No.TN 45 20080010280 to the petitioner forthwith, on receipt of a copy of this order.



11. In fine, this writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

Note: (i) 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

1.The Regional Transport Officer,
Office of the RTO,
Trichy West, Pirattiyur,
Trichy - 620009.

2.The Inspector of Police,
TIW - Traffic Investigation Wing - (North),
Trichy City, Trichy.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-18725[F] dated 03/06/2021)

+1 CC to M/s.SPL GP (SR-18819[F] dated 04/06/2021)

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