



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.12305 of 2021

R.Moorthy

... Petitioner

Vs.

1.The Regional Transport Officer,
Regional Transport Office,
Collectorate Complex,
Chettinayakkanpatti Post,
Thadikomby Road, Dindigul - 624 004.

2.The Sub-Inspector of Police,
Reddiarchatram Police Station,
Reddiarchatram,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent to return the petitioner's original driving licence bearing No.TN 57 2012 0002730 to the petitioner forthwith.

For Petitioner	: Mr.S.Prasanth
For R-1	: Mr.S.Shanumugavel, Government Advocate
For R-2	: Mr.P.Thilak Kumar, Government Advocate

ORDER

This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus directing the first respondent to return the petitioner's original driving licence bearing No.TN 57 2012 0002730 to the petitioner forthwith.

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

(i) The petitioner is a Driver by profession and he is having a valid driving licence bearing No.TN 57 2012 0002730. On 08.07.2021, while he was driving a Tipper Lorry bearing registration No.TN-57-BK-5063, there was an accident in which, one person died. First Information Report was filed in Crime No.525 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 second respondent police.

(ii) It is stated by the petitioner that the original licence was seized by the second respondent police and now the driving licence of the petitioner is with the first respondent.



Subsequently, on 12.07.2021, 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.

3. 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.

4. From the submissions made by the learned Government Advocates appearing for the respondents, it is noted that the original driving licence of the petitioner is now in possession of the first 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. 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.

6. 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.

7. 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.

8. In such circumstances, a direction is issued to the first respondent - Regional Transport Officer, Dindigul, to return the original driving licence bearing No.TN 57 2012 0002730 to the petitioner forthwith, on receipt of a copy of this order.

9. In fine, this writ petition is allowed. No costs.

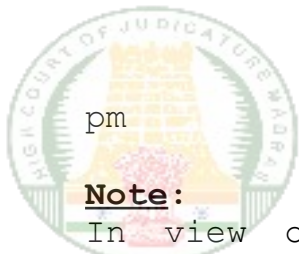
Sd/-

Assistant Registrar(CS-II)

// 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

1.The Regional Transport Officer,
Regional Transport Office,
Collectorate Complex,
Chettinayakkanpatti Post,
Thadikomby Road,
Dindigul - 624 004.

2.The Sub-Inspector of Police,
Reddiarchatram Police Station,
Reddiarchatram,
Dindigul District.

+1 CC to M/s.GP (SR-23498[F] dated 22/07/2021)

W.P (MD) No.12305 of 2021
20.07.2021

ls (CO)
TR(02.08.2021) 3P 4C