



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.9114 of 2022

M.Sankarapandian

.. Petitioner

Vs.

1. The Regional Transport Officer,
Regional Transport Office,
Tindivanam,
Villupuram District.

2. Inspector of Police,
Tindivanam Police Station,
Villupuram District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st Respondent to consider the Petitioner's representation dated 18.02.2022 and to return back the original driving license in DL.No.TN-63-20040000153.

For Petitioner : Mr.R.Maheshwaran

For Respondents : Mr.C.Sathish
Government Advocate

O R D E R

This Writ Petition is filed for a direction to the 1st respondent to consider the representation of the petitioner dated 18.02.2022.

2.By consent of both the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents, this Writ Petition is taken up for final disposal at the admission stage itself.

3.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the entire materials available on record.



4.The petitioner is working as Driver in Tamil Nadu State Transport Corporation. On 08.02.2022 at about 11.00 A.M., while he was driving the bus, a rider of the two wheeler drove the two wheeler negligently and dashed against the bus driven by the petitioner, sustained injuries and died. Thereafter, the Police Officials of Tindivanam Police Station, without proper enquiry, registered a case against the petitioner in Crime No.84 of 2022 on 08.02.2022, under Sections 279, 337 & 304A of IPC. The Police also took over the original driving license of the petitioner bearing DL.No.TN-63-20040000153 and forwarded the same to the 1st respondent. The 1st respondent, has not followed the procedures laid down in Section 19 of the Motor Vehicles Act, 1988 and no show cause notice was issued to the petitioner and also no enquiry was conducted. The learned counsel appearing for the petitioner submitted that without passing any order under Section 19(1) of the Act, either disqualifying or suspending or revoking the driving license of the petitioner, withholding the original driving license from 04.02.2022 is illegal, arbitrary and it is violation of Articles 14 and 21 of the Constitution of India. The learned counsel further submitted that criminal case against the petitioner is pending investigation in the FIR stage. The petitioner is not convicted by the competent Criminal Court for the offences mentioned in the FIR. Merely based on registration of FIR, the authorities have no power to withhold the driving license. Therefore, the petitioner has given a representation to the 1st respondent dated 18.02.2022. Since, no order is passed on the representation dated 18.02.2022, the petitioner has come out with the present Writ Petition. In support of his contention, the learned counsel appearing for the petitioner relied on the order of Madurai Bench of this Court dated 10.11.2020 made in W.P.(MD).No.15797 of 2020, [G.Arumugam Vs. The Regional Transport Officer, And Licensing Authority, Madurai North, Madurai and another], wherein the Madurai Bench of this Court has held as follows:

“ This writ petition has been filed for a Mandamus seeking for a direction to direct the respondents to return the original driving licence of the petitioner bearing DL No.TN67 19980002634 to him within a time frame to be fixed by this Court.

2.The case of the petitioner is that he was appointed as a Driver with the Tamil Nadu State Transport Corporation (Madurai) Ltd., and he is presently serving at Sattur Branch, Virudhunagar. According to him, due to an accident that happened on 06.10.2020, a First Information Report was registered



WEB COPY

against him in crime No.170 of 2020 by the TIW-II Police Station, Madurai City for the offence punishable under Sections 279 and 304A IPC.

3. In the affidavit filed in support of the writ petition, the petitioner has stated that he was not responsible for the accident. According to him, his driving license was seized by the second respondent on 07.10.2020 and the same was handed over to the first respondent for taking action against the petitioner under Section 19(1) (C) of the Motor Vehicles Act. It is the case of the petitioner that till date no show cause notice has been issued by the first respondent to him. It is also the case of the petitioner that the second respondent has failed to follow the procedures as contemplated under Section 206(2) of the Motor Vehicles Act before seizing the license from the petitioner. In such circumstances, he has filed the present writ petition seeking the aforesaid relief.

4. Mr. C. Ramesh, learned Special Government Pleader, accepts notice on behalf of the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

5. Heard Mr. A. Rahul, learned counsel appearing for the petitioner and Mr. C. Ramesh, learned Special Government Pleader appearing for the respondents.

6. The learned counsel appearing for the petitioner drew the attention of this Court to the orders passed in identical matters by this Court, wherein, this Court had directed the first respondent to return the original Driving Licence. This Court in all those decisions held that unless and until, the license issued by the competent authority is cancelled or suspended or revoked in the manner known to law, it is deemed to be in force. In the case on hand, the competent authority has not passed orders for cancellation or suspension or revocation of the driving license of the



WEB COPY

petitioner.

7.However, it is contended by the learned Special Government Pleader appearing for the respondents that show cause notice has been issued to the petitioner for cancellation of licence under Section 19 of the Motor Vehicles Act, which is disputed by the learned counsel for the petitioner.

8.Admittedly, no final order has been passed by the first respondent under Section 19 of the Motor Vehicles Act impounding the licence of the petitioner. This being the case, the decisions relied upon by the learned counsel for the petitioner squarely applies to the facts of the instant case.

9.In the case on hand, even without passing any order for cancellation or suspension or revocation of the licence, the respondents have seized the driving licence of the petitioner. The petitioner is admittedly, employed as Driver in Tamil Nadu State Transport Corporation(Madurai) Ltd. He has to eke out his livelihood and therefore, without driving licence, he cannot continue his duty as a Driver with Tamil Nadu State Transport Corporation (Madurai)Ltd. Since no final order has been passed under Section 19 of the Motor Vehicles Act, the original licence of the petitioner will have to be necessarily returned back to the petitioner by the respondents.

10.For the foregoing reasons, this Court directs the respondents to return the petitioner's original driving licence bearing DL No.TN67 19980002634 to the petitioner, within a period of one week from the date of receipt of a copy of this order.

11.With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed."

5.Mr.C.Sathish, learned Government Advocate appearing for



the respondents submitted that the petitioner's representation will be considered and orders will be passed within the time limit fixed by this Court.

6. Considering the above submissions of the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents and order of Madurai Bench of this Court referred to above, the 1st respondent is directed to get necessary written undertaking, retain photocopies of the original driving license and return the writ petitioner's aforementioned original driving licence to writ petitioner (under due acknowledgement) as early as possible and in any event within a week from today, i.e., on or before 19.04.2022. The writ petitioner shall go over to the office of the 1st respondent on any working day in the after noon sessions between 02.00 P.M and 4.00 P.M and the original driving license shall be handed over to him under due acknowledgement.

7. It is made clear that the writ petitioner shall produce the original driving license as and when called for, make himself available for the criminal case to proceed and cooperate with the investigation.

8. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (Digit)

//True Copy//

Sub Assistant Registrar

krk

To

1. The Regional Transport Officer,
Regional Transport Office,
Tindivanam, Villupuram District.
2. Inspector of Police,
Tindivanam Police Station,
Villupuram District.

+1cc to the Government Pleader, S.R.No.25503

W.P.No.9114 of 2022

VG-II (CO)
SU(18/04/2022)