



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P (MD).No.4275 of 2022

A.Veeriyaperumal

... Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Office,
Manaparai.

2.The Inspector of Police,
Vaiyampatti Police Station,
Vaiyampatti,
Trichy District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to return the petitioner's driving license bearing D.L.No.TN-47-19840001037 forthwith.

For Petitioner
For Respondent

: Mr.V.R.Arunkumar
: Mr.K.S.Selva Ganesan
Additional Government Pleader

ORDER

This writ petition has been filed for a writ of Mandamus to direct the respondents to return the petitioner's driving license bearing D.L.No.TN-47-19840001037.

2. The learned counsel for the petitioner has placed reliance on the decision of the Division Bench of this Court in **P.Sethuram Vs The Licensing Authority, The Regional Transport Officer, Dindigul** reported in 2010 WLR 100, (2010) 2 MLJ 778.

3. Incidentally, an identical matter was came up for consideration before this Court in W.P.(MD).No.4419 of 2022, wherein, the passages from the decisions of the Division Bench of this Court in **P.Sethuram Vs The Licensing Authority, The Regional Transport Officer, Dindigul** reported in 2010 WLR 100, (2010) 2 MLJ 778 was referred. It reads as under:

1.2. But in the case on hand, the licence of the



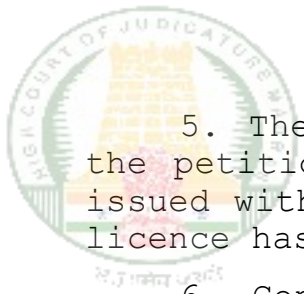
appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19 (1) of the Act, after getting a report from the police. Therefore the impounding of the licence has actually preceded the issue of show cause notice.

10. Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall.

11. 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 into 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.

12. In view of the above, the Writ Appeal is allowed, the order of the learned Judge is set aside and the writ petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not preclude the respondent from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated. No costs. Consequently, connected miscellaneous petition is closed.''

4. The aforesaid writ petition was dismissed by giving liberty to the petitioner, therein to approach the appropriate authority under Section 19 (3) of the Motor Vehicles Act, 1988.



5. The facts of the present case are similar to the facts of the petitioner in W.P.(MD)No.4419 of 2021. The petitioner has been issued with a show cause notice, dated 14.03.2022, the petitioner's licence has not been returned so far.

6. Considering the same, I am inclined to dismiss this writ petition by directing the petitioner to file a reply to the aforesaid show cause notice within a period of 15 days from the date of receipt of copy of this order. On receipt of such reply, the respondents are directed to pass an appropriate orders in accordance with law within a period of 15 days thereafter keeping the decisions of the Division Bench in P.Sethuraman's case referred to supra while passing orders.. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Regional Transport Officer,
The Regional Transport Office,
Manaparai.

2.The Inspector of Police,
Vaiyampatti Police Station,
Vaiyampatti,
Trichy District.

+1 CC to M/s.S.ARUNACHALAM, Advocate (SR-15592[F] dated
31/03/2022)

+1 CC to M/s.SPL GP (SR-15692[F] dated 31/03/2022)

W.P (MD) .No.4275 of 2022
30.03.2022

NA (CO)
KB(19.04.2022) 3P 5C