



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.05.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P(MD)No.9966 of 2022 and
W.M.P. (MD)No.7107 of 2022**

M.Karthick

... Petitioner

Vs.

1. The Regional Transport Officer
and Licensing Authority,
Madurai South,
Transport Department,
Madurai.

2. The Inspector of Police,
Nagamalai Pudukottai police station,
Madurai District.
(Crime No.155 of 2022)

... 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 forthwith the petitioner's original driving license bearing DL No.TN 60 Z 20030001615 to him within a time limit that may be fixed by this Court.

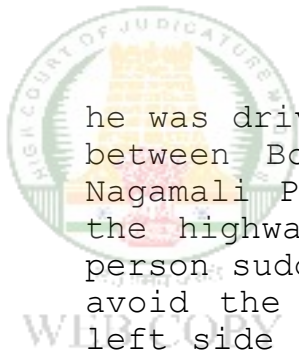
For Petitioner : Mr.A.Rahul
For Respondents : Mr.J.K.Jayaseelan,
Government Advocate.

ORDER

This writ petition has been filed for directing the respondents to return forthwith the petitioner's original driving license bearing DL No.TN 60 Z 20030001615 to him within the time stipulated by this Court.

2. Heard the learned counsel on either side. With their consent, the writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner is employed as a driver in the Tamil Nadu State Transport Corporation (Madurai) Limited. On 03.05.2022, while



he was driving the bus bearing Registration No.TN 57 N 2180 in route between Bodinatyakanur and Madurai, he was on return trip from Nagamali Pudukottai to Madurai Kamaraj University. When he entered the highway from service road near Madurai Kamaraj University, a person suddenly crossed the highway from North to South. In order to avoid the accident, the petitioner turned the bus on the further left side of the road. While so, the said person dashed against the right backside of the bus. The said person was taken to hospital where he succumbed to the injuries. However, the petitioner had been made as an accused in Crime No.155 of 2022 registered on the file of the second respondent police station for the offences under Sections 279 and 304(A) of I.P.C.

4. The specific case of the petitioner is that he is no way responsible for the unfortunate occurrence and that the very registration of the First Information Report against him is illegal. Without issuing any show cause notice and without passing any final order, the petitioner's license has been seized by the second respondent and the same has been handed over to the first respondent. The same is questioned in this writ petition.

5.The learned Government Advocate strongly opposed the prayer in this writ petition.

6.Though the objections raised by the learned Government Advocate appear to be sound, I am of the view that the impounding or suspension or cancellation of the petitioner's license can be resorted to only after finding the petitioner's guilty of negligence. It is only the jurisdictional Criminal Court or the Claims Tribunal that can decide the issue. It may not be open to an administrative authority to give any finding on this issue, particularly when the investigation is still pending. At the same time, if the petitioner's license is impounded and not returned to the petitioner, he will not be able to discharge his duty as driver. If the petitioner is found innocent later, the clock cannot be put back.

7.A Hon'ble Division Bench of this Court in the decision reported in **2010 Writ L.R. 100 (P.Sethuram V. The Licensing Authority, The Regional Transport Officer, Dindigul)** has held 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 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."

8. Respectfully following the same, the writ petition is allowed. The respondents are directed to return the petition mentioned original driving license to the petitioner immediately and without any delay. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar (RTI)

// True Copy //

20/05/2022

Sub Assistant Registrar (CS)

PMU

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
and Licensing Authority,
Madurai South,
Transport Department,
Madurai.
2. The Inspector of Police,
Nagamalai Pudukottai police station,
Madurai District.

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SG (CO)
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