



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.05.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P (MD) No.10328 of 2022

G.Arumugam

... Petitioner

Vs.

1. The Regional Transport Officer,
Karur,
Karur District.

2. The Sub Inspector of Police,
Karur Town Police Station,
Karur 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 first respondent to return the original driving licence No.TN67Z19960000591 of the petitioner to him forthwith.

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

ORDER

This writ petition has been filed for directing the first respondent to return the original driving licence No.TN67Z19960000591 of the petitioner to him forthwith.

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 a driver employed in the Tamil Nadu State Transport Corporation(Madurai) Limited. When he was driving the vehicle bearing Registration No.TN 58-N-2392 on 30.04.2022, it was involved in a fatal accident. Crime No.342 of 2022 was registered on the file of Karur police station for the offences under Sections 279, 337 and 304(A) of IPC. The petitioner's driving license has since been seized. Seeking its return, the writ petition came to be filed.

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 driving 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.

Sd/-

Vacation Officer/
Assistant Registrar (CS-III)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)



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.

WEB COPY

1. The Regional Transport Officer,
Karur,
Karur District.

2. The Sub Inspector of Police,
Karur Town Police Station,
Karur District.

+1 CC to M/s.A. BALAJI, Advocate (SR-24073[F] dated 23/05/2022)

+1 CC to M/s.SPL.GP (SR-24051[F] dated 23/05/2022)

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