



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.10733 of 2022

and

W.M.P. (MD) .No.7752 of 2022

P.Thanga Pandian

... Petitioner

vs.

1.The Regional Transport Officer and
Licensing Authority,
Transport Department,
Srivilliputhur.

2.The Regional Transport Officer and
Licensing Authority,
TN 58 Madurai South RTO Office,
Transport Department,
Madurai.

3.The Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.
(Crime No.50 of 2022).

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to forthwith return the petitioner's original driving license bearing No.TN 58 20000001800 to him within a time limit that may be fixed by this Court.

For Petitioner	:	Mr.A.Rahul
For Respondents	:	Mr.A.Baskaran Additional Government Pleader

O R D E R

The present writ petition has been filed by the driver of the State Transport Corporation.

2. According to the writ petitioner, the vehicle met with an accident on 17.04.2022 and one of the passengers has passed away in the said accident. His driving license was seized by the third respondent on 18.04.2022 and it is being retained by the third respondent. However, the learned Additional Government Pleader



appearing for the respondents 1 and 2 submits that the third respondent has handed over the license to the first respondent.

3. The writ petition has been filed seeking a Writ of Mandamus to forthwith return the petitioner's original driving license, on the ground that without conducting an enquiry, his driving license cannot be seized by anyone of the authority. The learned counsel for the petitioner relied upon a judgment of the Division Bench of this Court reported in **(2010) 2 MLJ 778 (P.Sethuram v. The licensing authority, the Regional Transport Officer)**. Paragraph No.11 of the said judgment is extracted as follows:

"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 license cannot be taken to be passed after due application of mind."

4. In view of the judgment of the Division Bench of this Court, the seizure of the driving license by anyone of the respondent is illegal, without conducting an enquiry. Apart from that, the writ petitioner has not been found guilty either by the criminal Court or by the Motor Accident Claims Tribunal. It is seen that the seizure amounts to pre-judging the said issue.

5. In view of the above said Division Bench judgment which has been followed in number of cases, I am inclined to pass the following order:

The Writ Petition is allowed and the respondents are hereby directed to return the driving license to the writ petitioner, on production of this order copy, forthwith. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

akv/gbg



To

1.The Regional Transport Officer and
Licensing Authority,
Transport Department,
Srivilliputhur.

2.The Regional Transport Officer and
Licensing Authority,
TN 58 Madurai South RTO Office,
Transport Department,
Madurai.

3.The Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.

+1 CC to M/s.A. RAHUL, Advocate (SR-24222[F] dated 01/06/2022)

+1 CC to M/s.SPL.GP (SR-24252[F] dated 02/06/2022)

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RK(02/06/2022) 3P 6C