



W.P.(MD)No.12788 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.12788 of 2022
and
W.M.P.(MD)No.9078 of 2022

M.Panneerselvam

... Petitioner

versus

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

2. The Regional Transport Officer
and Licensing Authority,
Transport Department,
TN55Z Aranthangi Unit Office,
Aranthangi.

3. The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Mandamus, to direct the



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respondents to forthwith return the petitioner's original driving licence bearing TN39 19 97 0001850 within a time that may be fixed by this Court.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.S.Kameswaran
Government Advocate

ORDER

This writ petition is filed for a Mandamus, directing the respondents to return the petitioner's original driving licence bearing No.TN39 19 97 0001850 within a stipulated time.

2. The learned counsel appearing for the petitioner submits that the petitioner is working as a Driver in the Tamil Nadu State Transport Corporation, Pudukottai Region. When he was driving a vehicle on 12.05.2022, an accident had occurred near Karaikudi, in which, a person succumbed. On the complaint of the victim's father, the third respondent Police registered a case against the petitioner in Crime No. 130 of 2022 for the offence punishable under Sections 304 A and 279



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IPC and also seized the petitioner's driving licence and handed over the same to the Regional Transport Office, Karaikudi, for taking necessary action against the petitioner. He further submits that the petitioner is not responsible for the said accident, since there was no rash and negligent driving on the part of the petitioner and he can establish his case during the trial. He further submits that the first respondent is also attempting to impound the petitioner's licence even before the filing of final report in Crime No.130 of 2022 and if any action is taken by the first respondent, then, the petitioner would be prejudiced. In support of his submission, he has also relied upon the Judgment of a Division Bench of this Court in the case of ***P.Sethuram vs. The Licensing Authority, Regional Transport Officer, Dindigul***, reported in ***2010 WLR 100***.

3. Mr.S.Kameswaran, learned Government Advocate, takes notice on behalf of the respondents.



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4. In the Judgment of a Division Bench of this Court in

P.Sethuram vs. The Licensing Authority, Regional Transport Officer, Dindigul, reported in ***2010 WLR 100***, relied on by the learned counsel for the petitioner, it has been held as follows:

“8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a driving licence, if any of the contingencies prescribed in Clauses (a) to (h) of Sub-section (1) of Section 19 arises. Moreover, the power u/s.19(1) can be invoked only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.

9. 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 u/s.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,



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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.



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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 rule as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated. No costs. Consequently, connected miscellaneous petition is closed.”

5. Following the same, the writ petition is disposed of with a direction to the first respondent to return the driving licence to the petitioner, within a period of 10 days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No.

Internet: Yes / No.

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