



WEB COPY



Writ Petition No.12230 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Writ Petition No.12230 of 2023

S.Dhanasekaran
S/o.Shanmugam

... Petitioner

VS.

1.The Inspector of Police,
T1W Pallikaranai Police Station,
Chennai - 100.

2.The Licensing Authority cum-Regional Transport Officer,
Sholinganallur,
Chennai - 119.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent herein to return the original Driving License (DL No.TN22 19940007362)

For Petitioner : Mr.K.Hariharan

For Respondents : Mr.A.M.Ayyathurai
Government Advocate

ORDER

This writ petition has been filed for issue of a writ of mandamus directing the second respondent to return the original driving license of the petitioner.



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2. Heard Mr.K.Hariharan, learned counsel appearing on behalf of the petitioner and Mr.A.M.Ayyathurai, learned Government Advocate appearing on behalf of the respondents.

3. The petitioner is a driver in the Tamil Nadu State Express Transport Corporation. On 05.04.2023, when the petitioner was driving the vehicle a fatal accident occurred. Pursuant to the same, an FIR was registered in Crime No.210 of 2023 for offences under Sections 279 and 304-A of IPC. It is brought to the notice of this Court that the investigation is pending.

4. The first respondent police after registration of the FIR collected the original driving license from the petitioner and it was sent to the second respondent, who is said to have recommended for the cancellation of the driving license.

5. The petitioner gave a representation to the second respondent requesting for returning back the original driving license. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate direction.



6. The issue involved in the present writ petition is squarely covered by the earlier order passed by this Court in W.P.No.21843 of 2021, dated 06.10.2021. The relevant portions in the order are extracted hereunder:

4. The issue involved in the present writ petition is covered by the earlier order passed by this Court in W.P.(MD) No.8792 of 2021 dated 29.04.2021. The relevant portions of the order are extracted hereunder:

“6.The issue that is involved in the present writ petition is squarely covered by the earlier orders passed by this Court, wherein, this Court has consistently taken the view that, without passing orders under Section 19(1) of the Motor Vehicles Act, the original driving licence cannot be permanently impounded. It will be useful to extract one such order passed by this Court in W.P.(MD).No.3527 of 2020, dated 21.02.2020.

“7.It is settled law that until the licence or any certificate issued by the competent authority is cancelled or suspended or revoked in the manner known to law, it is deemed to be in force. The impounding of licence will come only after passing of the order as per the relevant provisions of the statute, in this case, under Section 19 of the Motor Vehicles, Act, 1988.

8.In similar circumstances, a Division Bench of this Court, in P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul, reported in 201 Writ L.R.100, held that even before passing the order under Section 19 of the Motor Vehicles Act, 1988, if driving licence is impounded, it amounts to pre-determination of the issue and the authority has no jurisdiction to do so.

9.I do also respectfully agree with the views of the Division Bench of this Court and in the instant case, the respondents have no power to impound the driving licence of the petitioner and retain it with him. The petitioner is a driver and he is entitled to use the licence till it is legally cancelled or suspended.



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10. In such circumstances, a direction is issued to the first respondent. The Regional Transport Officer, Trichy District, to return the original driving licence bearing D.L.No.TN5019920000594 to the petitioner forthwith, on receipt of a copy of this order.”

5. In view of the above, there shall be a direction to the first respondent to return the original Driving Licence No. TN2819950002495 to the petitioner forthwith on receipt of a copy of this order. With the above directions, this writ petition is disposed of. No costs.

7. In view of the above, there shall be a direction to the second respondent to return back the original driving license to the petitioner forthwith on receipt of a copy of this order.

This writ petition is disposed of with the above direction. No Costs.

20.04.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
gm

Note: Issue Order Copy by 24.04.2023

To



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N. ANAND VENKATESH, J

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