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W.P.No.20935 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 14.07.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.SOUNTHAR**

**W.P No.20935 of 2023**

K.Govindaraju

...Petitioner

Vs.

The Regional Transport Officer  
Karapattu  
Kancheepuram 631 552.

...Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent herein to return the petitioner's driving license bearing No.TN32Y19950000764 to the petitioner herein by considering the representation of the petitioner dated 04.07.2023.

For Petitioner : Mr.D.Soundar Raj

For Respondent : Mr.N.Naveenkumar  
Government Advocate





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5. The main grievance of the petitioner is that eventhough the driving license was seized on 09.06.2023, till date, the same has not been returned to him and as a consequence he is unable to attend duty. The respondent is not entitled to seize the driving license of the petitioner without following the procedure under Section 19(1) of the Motor Vehicles Act r/w 21 of the Central Motor Vehicles Rules, which read thus:

***“19. Power of licensing authority to disqualify from holding a driving licence or revoke such licence:-***

*(1) if a licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard,*

***“21.Powers of licensing authority to disqualify:-***

*For the purpose of clause (f) of sub-section (1) of Section 19, the commission of the following acts by holder of a driving licence shall continue nuisance or danger to the public, namely:-*

- (1) Theft of motor vehicle.*
- (2) Assault on passengers.*
- (3) Theft of personal effects of passengers*



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*(4) Theft of goods carried in goods carriage.*

*(5) Transport of goods prohibited under any law.*

*(6) Driver while driving a transport vehicle, engages himself in activity which is likely to disturb his concentration.*

*(7) Abduction of passengers.*

*(8) Carrying overload in goods carriages.*

*(9) Driving at speed exceeding the specified limit.*

*(10) Carrying persons in goods carriage, either inside the driver's cabin in excess of its capacity or on the vehicle, whether for hire or not.*

*(11) Failing to comply with the provisions of Section 134.*

*(12) Failure to stop when signalled to do so by any person authorised to do so.*

*(13) Misbehaviour with and showing discourtesy to passengers, intimidating passengers or consignors and consignees of goods.*

*(14) Smoking while driving public service vehicles.*

*(15) Abandoning vehicle in a public place causing inconvenience to other road users or to passengers in the vehicle.*



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*(16) Driving vehicle while under the influence*

*of drink or drugs.*

*(17) Interfering with any person mounting or*

*preparing to mount upon any other vehicle.*

*(18) Allowing any person to sit or placing*

*things in such a way as to impede the driver from having a clear vision of the road or proper control of the vehicle.*

*(19) Not stopping a stage carriage at approved*

*stopping places for a sufficient period of time in a safe and convenient position upon demand or signal of the conductor or any passenger desiring to alight from the vehicle and unless there is no room in the vehicle, upon demand or signal of any person desiring to become a passenger.*

*(20) Loitering or unduly delaying any journey*

*and not proceedings to the destination as near as may be in accordance with the time-table pertaining to the vehicle, or, where there is no such time table, with all reasonable dispatch.*

*(21) Not driving a contract carriage, in the*

*absence of a reasonable cause, to the destination named by the hirer by the shortest route.*



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(22) *The driver of a motor cab not accepting the first offer of hire which may be made to him irrespective of the length of the journey for which such offer is made.*

(23) *The driver of a motor cab demanding or extracting any fare in excess to that to which he is legally entitled or refusing to ply motor cab.*

(24) *Abandoning a transport vehicle as a mark of protest or agitation of any kind or strike in a public place or in any other place in a manner causing obstructions or inconvenience to the public or passengers or other users of such places.*

(25) *Using mobile phone while driving a vehicle.*

6. In the case on hand, the petitioner has not been heard before seizing his driving licence and the issue involved in this Writ Petition is squarely covered by the law laid down by the Hon'ble Division Bench of this Court in the case of ***P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul, reported in 2010 Writ L.R.100***, wherein it was held that the licensing authority is not entitled to pre-conclude the issue and come to a conclusion that the petitioner



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is guilty of rash and negligent driving even before the Criminal Court or Motor Accident Tribunal gives a formal finding to that effect. Relevant portion of the decision of the Hon'ble Division Bench in this regard in paragraph 10 & 11 are extracted below:

*“10. Apart from the above, there is no allegation, 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 Clause (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 Clause (a) to (h) of Section 19(1), under which the case of the appellant would fall.*

*11. The respondent has, in the impugned order, preconcluded 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*



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*making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind.”*

7. In view of the law laid down by the Hon'ble Division Bench in the decision (referred to supra), the first respondent is not entitled to hold the driving license without conducting any enquiry. Therefore, this Court is inclined to issue a direction to the first respondent to return the original driving license of the petitioner bearing No.TN32Y19950000764 to him immediately. However, this order will not prevent the first respondent from taking any action under Section 19(1) of the Motor Vehicles Act.

8. With the above directions, this Writ Petition is allowed. No costs.

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Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
Neutral Citation Case : Yes/No  
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**S.SOUNTHAR, J.**

dna

**To**

The Regional Transport Officer  
Karapattu  
Kancheepuram 631 552.

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