



W.P.(MD) No.5853 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.5853 of 2023

and

W.M.P.(MD) No.5419 of 2023

R.Paneer

.. Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Officer (South),
Madurai District.

2.The Inspector of Police,
Nagamalaiputhukottai Police Station,
Madurai District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st respondent to return the petitioner's original driving license within a time limit that may be fixed by this Court.

For Petitioner : Mr.G.M.Xavier

For R1 : Mr.T.Amjadkhan
Government Advocate



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For R2 : Mr.M.Vaikkam Karunanithi
Government Advocate

ORDER

This writ petition is filed for the issue of a Writ of Mandamus, directing the 1st respondent to return the petitioner's original driving license.

2. The case of the petitioner is that he is a Driver with the Tamil Nadu State Transport Corporation (Madurai) Ltd. While so on 05.12.2022, when he was proceeding towards Periyar, a 71 year old woman tried to get on the bus at Kamarajar University Bus Stop and when the passengers in the bus shouted, the petitioner has applied the brake and stopped the bus. Hence, the aged woman who was trying to get on the bus fell down. Immediately an ambulance was called and the injured person was sent to the Government Rajaji Hospital, Madurai where she was declared dead.



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3. It is the further case of the petitioner that he had immediately given a complaint to the Nagamalaiputhukottai police station, but though the petitioner had pleaded that he was not at fault, the second respondent had registered an FIR against the petitioner. Thereafter, the Transport Corporation had initiated disciplinary action against the petitioner and kept him under suspension. While so, the second respondent had seized the petitioner's original driving licence and forwarded the same to the first respondent for further action. Thereafter, the petitioner has received a show cause notice dated 08.02.2023 calling upon him to give explanation as to why his original driving licence should not be disqualified for a period of less than three months. The petitioner gave his explanation on 13.02.2023 denying the allegation and that he was not responsible for the accident. Since no steps have been taken by the first respondent to return the petitioner's licence, he has come up by way of this writ petition.

4. The learned Government Advocate appearing for the first respondent would submit that Section 19 of the Motor Vehicles Act, 1988



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empowers the Licensing Authority to disqualify a person or revoke the licence for the contingencies set out therein, which include “it is being used or used in commission of a cognizable offence”.

5. Heard the learned counsel on either side.

6. A Division Bench of this Court in the case of ***P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, Dindigul*** reported in ***2010 Writ L.R. 100***, was dealing with the similar issue, wherein a question was raised as to whether mere registration of a criminal complaint was enough to revoke a driving licence. The Bench considering Section 19(1) of the Motor Vehicles Act extensively 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 under Section 19(1) can be invoked only after



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giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.”

In the light of the above, the first respondent has no authority to retain the driving licence.

7. For the above reasons, the writ petition is allowed. The first respondent is directed to return the petitioner's original driving licence within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

17.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

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P.T.ASHA, J.

abr

To

- 1.The Regional Transport Officer,
The Regional Transport Officer (South),
Madurai District.
- 2.The Inspector of Police,
Nagamalaiputhukottai Police Station,
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