



WP(MD)No.6332 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

WP(MD)No.6332 of 2023 &
WMP(MD)No.5996 of 2023

K.Muthaiah

... Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Office,
Madurai South, Madurai District.

2.The Sub Inspector of Police,
Thideer Nagar Police Station,
TIW III, Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by the first respondent in TN58/2023/597 dated 02.03.2023, quash the same and consequently direct the first respondent to drop the action against the petitioner.



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For Petitioner : Mr.G.M.Xavier
For Respondents : Mr.A.Sivanupandian
Government Advocate for R1
Mr.M.Vaikkam Karunanithi
Government Advocate for R2

ORDER

The petitioner, who is a driver with the Tamil Nadu State Transport Corporation Limited had been involved in an accident on 08.12.2022, in an by which a two wheeler rider in an attempt to overtake the vehicles in a rash and negligent manner, had dashed against the left side of the bus driven by the petitioner. The driver of the two wheeler sustained injuries and succumbed to his injuries on the way to the Hospital.

2. The second respondent had registered an FIR against the petitioner in Crime No.240 of 2022, alleging that the petitioner had caused the accident. On 08.12.2012, the Inspector of Police, Thideer Nagar Police Station seized the driving licence of the petitioner and forwarded the same to the first respondent for further action. The driving



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licence was seized from the petitioner without issuing any show cause notice or order under Section 19 (1) of the Motor Vehicles Act. Only after the seizure of driving licence, 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 has submitted his explanation on 13.02.2023. However, without considering the petitioner's explanation, the first respondent has passed the impugned order suspending the petitioner's driving licence for the period from 08.12.2022 to 07.06.2023. Therefore, this writ petition.

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

4. Heard the learned counsels on either side.



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5. 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 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.



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6. For the above reasons, the writ petition is allowed. The impugned order dated 02.03.2023 passed by the first respondent in TN58/2023/597 is set aside and 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.

24.03.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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To

1.The Regional Transport Officer,
The Regional Transport Office,
Madurai South, Madurai District.

2.The Sub Inspector of Police,
Thideer Nagar Police Station,
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P.T.ASHA, J.

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