



W.P.(MD)No.7637 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.7637 of 2023

M.Selvam

... Petitioner

vs.

1.The Regional Transport Officer,
Madurai (North),
Office of the RTO Madurai (North),
Madurai.

2.The Inspector of Police,
Traffic Investigation Wing, II,
Thallakulam, Madurai.

3.The General Manager,
TNSTC, Madurai Region,
Madurai.

4.The Motor Vehicle Inspector,
Unit Office, Usilampatti,
Madurai District.

... Respondents



W.P.(MD)No.7637 of 2023

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the proceedings of the first respondent in R.No.2338/A4/2023 dated 07.02.2023 and quash the same as illegal and arbitrary, subsequently direct the first respondent to return the petitioner's driving licence No.TN-60-19920000176.

For Petitioner : Mr.R.Sevugaraja

For Respondents : Mr.D.Ghandiraj
Special Government Pleader

ORDER

The above writ petition is filed for a certiorarified mandamus calling for the records relating of the first respondent in proceedings dated 07.02.2023, quash the same and consequently, direct the first respondent to return the petitioner's driving licence No.TN-60-19920000176.



W.P.(MD)No.7637 of 2023

WEB COPY

2. The facts in brief are as follows.

The petitioner is a driver employed in the State Transport Corporation, who has been arrayed as the third respondent. The second respondent had registered a case against the petitioner for the offences under Sections 379 and 304(A) of IPC, alleging that on 07.01.2023, a two wheeler rider had been killed on account of the petitioner's rash and negligent driving. FIR was lodged by the father of the deceased. He would submit that immediately after the accident, the third respondent had suspended the petitioner from service by order dated 12.01.2023 and removed the suspension order by order dated 19.01.2023 without prejudice to the prosecution as well as the Departmental Enquiry. Though the petitioner had returned to his work, he is unable to do so, since the first respondent has seized his driving licence for a period of 5 months and 29 days i.e., from 07.01.2023 to 06.07.2023. Therefore, aggrieved by this action, the petitioner is before this Court.

3. Heard the learned counsels on either side.



W.P.(MD)No.7637 of 2023

WEB COPY

4. Section 19 of the Motor Vehicles Act grants power to the licencing Authority to disqualify the driver from holding a driving licence or revoke such a licence, if after giving the person an opportunity of being heard, the Authority is satisfied that he falls within any one of the categories listed under Sub-Sections (1) (a) to (1) (h). Section 21 of the Act further provides for the suspension of driving licence in certain cases. This relates to offences punishable under Section 184 of IPC. The Authority can suspend the licence for a period of six months from the date on which the case is registered or if the person is discharged or acquitted before the six months, until such discharge or acquittal, as the case may be. The first respondent has now passed the impugned order suspending the licence for a period of over six months. The petitioner who has been suspended by the third respondent has also been reinstated and he has been directed to proceed for work. However, since the first respondent retains possession of the driving licence, he is unable to attend to work.



W.P.(MD)No.7637 of 2023

WEB COPY

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.



W.P.(MD)No.7637 of 2023

WEB COPY

6. Therefore, in the interests of justice and considering the fact that the petitioner has been reinstated, the writ petition is allowed. The impugned order passed by the first respondent in R.No.2338/A4/2023 dated 07.02.2023 is hereby set aside. The first respondent is directed to return the petitioner's original driving licence within a period of two weeks from the date of receipt of a copy of this order. No costs.

06.04.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

mbi



W.P.(MD)No.7637 of 2023

WEB COPY

To

- 1.The Regional Transport Officer,
Madurai (North),
Office of the RTO Madurai (North),
Madurai.
- 2.The Inspector of Police,
Traffic Investigation Wing, II,
Thallakulam, Madurai.
- 3.The General Manager,
TNSTC, Madurai Region,
Madurai.
- 4.The Motor Vehicle Inspector,
Unit Office, Usilampatti,
Madurai District.



WEB COPY



W.P.(MD)No.7637 of 2023

P.T.ASHA, J.

mbi

W.P.(MD)No.7637 of 2023

06.04.2023