



W.P.(MD).No.17444 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.17444 of 2023

Kesavan

... Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Paramakudi,
Ramanathapuram District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent forthwith return the petitioner's driving license in order to protect the livelihood of the petitioner in DL TN65 19910001898, based on the petitioner's representation on 23.06.2023 and 18.07.2023 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Senthilkumar

For Respondent : Mr.B.Saravanan,
Additional Government Pleader.



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ORDER

This writ petition has been filed seeking Writ of Mandamus to direct the respondent to return the petitioner's original driving license in DL TN65 19910001898.

2. Heard the learned counsel on either side. With their consent, the writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner is a driver employed in the Tamil Nadu State Transport Corporation in Ulaganeri Branch at Madurai. When he was driving the vehicle bearing Registration No.TN-63-N-1827 on 20.11.2022, it was involved in a fatal accident. Crime No.252 of 2022 was registered on the file of Paramakudi Police Station on 21.11.2022 for the offences under Sections 279, 337, 338 and 304(A) of IPC. The petitioner's driving license has since been seized. Seeking its return, the writ petition came to be filed.

4. The specific case of the petitioner is that he is no way responsible for the unfortunate occurrence and that the very registration of the First Information Report against him is illegal. Without issuing any show cause



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notice and without passing any final order, the petitioner's driving license has been seized by the second respondent and the same has been handed over to the first respondent. Aggrieved over the same, the petitioner has filed Writ Petition in W.P.(MD).No.1052 of 2023 and this Court vide order dated 31.01.2023 directed the respondent to conduct proceeding and pass order following due process of law. Thereafter, the petitioner was issued with show cause notice for which he also submitted his explanation. Earlier the respondent retained the petitioner's license from 21.11.2022 to 24.03.2023 and thereafter again the respondent had passed a suspension order for the petitioner's license for a period from 24.03.2023 to 22.06.2023. The respondent ought to retain the petitioner's license after the suspension period. But they failed to do so. The same is questioned in this writ petition.

5. The learned Additional Government Pleader strongly opposed the prayer in this writ petition.

6. Though the objections raised by the learned Additional Government Pleader appear to be sound, I am of the view that the impounding or suspension or cancellation of the petitioner's license can be resorted to only after finding



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the petitioner's guilty of negligence. It is only the jurisdictional Criminal Court or the Claims Tribunal that can decide the issue. It may not be open to an administrative authority to give any finding on this issue, particularly when the investigation is still pending. At the same time, if the petitioner's license is impounded and not returned to the petitioner, he will not be able to discharge his duty as driver. If the petitioner is found innocent later, the clock cannot be put back.

7. A Hon-ble Division Bench of this Court in the decision reported in *2010 Writ L.R. 100 (P.Sethuram V. The Licensing Authority, The Regional Transport Officer, Dindigul)* has held as follows:-

“The respondent has, in the impugned order, pre-concluded 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 making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind”.



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8. Respectfully following the same, the writ petition is allowed. The respondents are directed to return the petition mentioned original driving license to the petitioner immediately and without any delay. No costs.

19.07.2023

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

Note: Issue Order Copy on 20.07.2023.

To

The Regional Transport Officer,
Regional Transport Office,
Paramakudi,
Ramanathapuram District.



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S.SRIMATHY, J.

Nsr

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