

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.21095 of 2023
and
W.M.P.(MD)No.17499 of 2023**

G.Velmurugan

Vs.

... Petitioner

- 1.The Regional Transport Officer and
Licensing Authority,
Office of the Regional Transport Office,
Transport Department,
Madurai North, Madurai District.
- 2.The Motor Vehicle Inspector,
Unit Office,
The Office of Regional Transport Officer,
Transport Department,
Melur, Madurai District.
- 3.The Inspector of Police,
Melur Taluk Police Station,
Melur, Madurai District.
(In Crime No.494 of 2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to forthwith return the petitioner's original driving license bearing DL No.TN 60 19950000338 to the petitioner within a time limit that may be fixed by this

Court.

For Petitioner : Mr.A.Rahul
For R-1 and 2 : Mr.R.Suresh Kumar
Additional Government Pleader.
For R-3 : Mr.K.Sanjai Gandhi
Government Advocate (Criminal side)

ORDER

This writ petition has been filed seeking Writ of Mandamus to direct the first respondent to return the petitioner's original driving license bearing DL No.TN 60 19950000338.

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 (Kumbakonam) Limited. When he was driving the vehicle bearing Registration No.TN 63 N 1740 on 26.07.2023, it was involved in a fatal accident. Crime No.494 of 2023 was registered in the 3rd respondent Police Station on 26.07.2023 for the offences under Sections 279 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 notice and without passing any final order, the petitioner's driving license has been seized.

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 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”.

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. Consequently, connected miscellaneous petition is closed.

30.08.2023

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

To

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S.SRIMATHY, J.

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