



W.P.(MD)No.23352 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 23352 of 2023

and

W.M.P(MD)No.19539 of 2023

S.Mohanasundaram

... Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Office,
Dindigul,
Dindigul District.

2.The Sub Inspector of Police
Dhadikombu Police Station,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the first respondent in Show Cause notice No. TN57/2023/507 dated 12.09.2023 quash the same and consequently direct the respondent to drop the action against the petitioner.



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For Petitioner : Mr.G.M.Xavier

For Respondents : Mr.A.K.Manikkam - for R1
Special Government Pleader

Mr.K.Sanjai Gandhi - for R2
Government Advocate (Crl. side)

ORDER

This writ petition has been filed seeking *Writ of Certiorarified Mandamus* to quash the impugned order passed by the first respondent in Show Cause notice No. TN57/2023/507, dated 12.09.2023 with a consequential direction to the respondent to drop the action against the petitioner.

2. Heard Mr.G.M.Xavier, the Learned counsel on either side, Mr.A.K.Manikkam, the Learned Special Government Pleader appearing for the 1st respondent, Mr.K.Sanjai Gandhi, the Learned Government Advocate (Crl. side) appearing for the 2nd respondent and perused the material documents available on record. With their consent, the writ petition is taken up for final disposal at the admission stage itself.



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3. The petitioner is a driver employed in the Tamil Nadu State Transport Corporation (Madurai) Limited. When he was driving the vehicle bearing Registration No.TN 33 N 3240 on 27.08.2023, it was involved in a fatal accident. The 2nd respondent has registered a case in Crime No.258 of 2023 for the offences under Sections 279 and 304 (A) of IPC. Thereafter, on 27.08.2023, the Petitioner was directed to be present in the Dhadikombu Police Station with original driving license and the same was handed over to the 1st respondent. The impugned order, dated 12.09.2023 came to be passed, whereby the petitioner's driving license was suspended for a period of six months from 27.08.2023 to 27.11.2023. Aggrieved over the same, the petitioner is before this Court.

4. It is submitted by the learned counsel for the petitioner that when neither the Criminal Court nor the Claims Tribunal have pronounce on the guilt of the petitioner, the first respondent has prejudged the issue by passing the impugned order suspending the driving licence, which is not in accordance to law. It is further submitted that though the investigation in the criminal case has not been completed and not final report has been laid against the petitioner, the first respondent has no authority to retain the petitioner's license. It is also submitted



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that the above issue is covered by a decision of this Court W.P(MD)No.5635 of 2021, wherein, it was held as follows:

“5.I carefully considered the rival contentions and went through the materials on record. The impugned order is vulnerable on more grounds than one. Though the petitioner had given his explanation and the same was sent by registered post on 22.01.2021, the second respondent has proceeded in the matter as if no explanation was given. That apart when neither the Criminal Court nor the Claims Tribunal have pronounced on the guilt of the petitioner, the second respondent has chosen to prejudge the issue. The petitioner was also not given any opportunity of personal hearing, though it is specifically contemplated by Section 19(1) of the Motor Vehicles Act, 1988.

6.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



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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.

7. Respectfully following the same,, the order impugned in this writ petition is quashed. 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.”

5. In view of the same, this Court is inclined to set aside the impugned order, dated 12.09.2023 and further directs the respondents to return the driving licence of the Petitioner, within a week from the date of receipt of a copy of this order. However, it shall not preclude the first respondent from proceeding further with the proceedings already initiated, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Motor Vehicles Act, 1988 has arisen or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated.



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6. With the above directions, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

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

25.09.2023

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Note : Issue a copy of order, on 29.09.2023



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To

- 1.The Regional Transport Officer,
The Regional Transport Office,
Dindigul,
Dindigul District.
- 2.The Sub Inspector of Police
Dhadikombu Police Station,
Dindigul District.



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 23352 of 2023**

25.09.2023