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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.23201 of 2023

K.Sekar

... Petitioner

Vs.

1. The Regional Transport Officer,
Thanjavur,
Thanjavur District.

2. The Sub - Inspector of Police,
Sengipatti Police Station,
Thanjavur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Mandamus***, directing the 1st respondent to return the original driving licence No. TN 49Z19920002105 of the petitioner to him forthwith.

For Petitioner : A.Balaji

For Respondents : Mr.C.Baskaran,
Government Advocate, for R-1
Mr.K.Sanjai Gandhi,
Government Advocate (Crl. side), for R-2



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ORDER

This writ petition has been filed seeking *Writ of Mandamus* to direct the first respondent to return the petitioner's original driving license No.TN 49Z19920002105.

2. Heard A.Balaji, the Learned counsel appearing for the petitioner, Mr.C.Baskaran, the Learned Government Advocate 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.

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 68-N-0538 on 12.07.2023, it was involved in a fatal accident. The 2nd respondent has registered a case in Crime No.169 of 2023 for the offences under Sections 279 and 304(A) of IPC. The petitioner's driving



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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 by the second respondent and the same has been handed over to the first respondent. The same is questioned in this writ petition.

5. Though, objections were raised by the official respondents, 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



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be able to discharge his duty as driver. If the petitioner is found innocent later, the clock cannot be put back.

6. The 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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7. 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.

22.09.2023

Index : Yes / No
Internet : Yes/ No
ksa

Note to Office : Issue a copy of Order on 22.09.2023

To

1. The Regional Transport Officer,
Thanjavur,
Thanjavur District.
2. The Sub - Inspector of Police,
Sengipatti Police Station,
Thanjavur.



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S.SRIMATHY, J.

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