



W.P(MD)No.26432 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.26432 of 2023 and
WMP(MD) No.22731 of 2023

Velappan .N

... Petitioner

Vs

1.The Regional Transport Officer,
Regional Transport Office,
Marthandam,
Kanyakumari District.

2.The Inspector of Police,
Pudukadai Police Station,
Kanyakumari District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records from the first respondent relating to the impugned order dated 11.10.2023 in show cause No.TN75/2023/906, quash the same and consequently direct the 1st respondent to return the petitioner's Driving Licence without any remarks.



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For Petitioner : Mr.T.Sakthikumaran
For R1 : Mr.M.Ramesh
Government Advocate
For R2 : Mr.B.Thanga Aravindh
Government Advocate

ORDER

The petitioner is a driver working in the Tamil Nadu Transport Corporation. When he was in duty in Marthandam Branch, Nagercoil Mandapam, Tirunelveli Division in Bus No.TN 32 N 3872, an accident has happened, due to which, a lady died. Therefore, the Regional Transport Officer has initiated action as against the petitioner and suspended his driving license by order dated 11.10.2023. The learned counsel appearing for the petitioner by referring the earlier order passed by this Court in WP(MD)No. 12788 of 2022, dated 22.06.2022 submits that the criminal case initiated as against this petitioner is not concluded and hence the order of suspension shall be revoked.



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2.The learned counsel appearing for the respondent Transport Corporation submits that a show cause notice has already been issued to this petitioner on 10.10.2023.

3.This Court in a similar writ petition filed by a Transport Corporation driver in WP(MD) No.12788 of 2022 has allowed that writ petition by following the ratio laid down in the Judgment of the Division Bench of this Court in ***P.Sethuram vs. The Licensing Authority, Regional Transport Officer, Dindigul***, reported in ***2010 WLR 100*** and also directed the first respondent to return the driving license to the petitioner within a period of 10 days.

The Division Bench of this Court has passed an order as follows:-

11. 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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12. In view of the above, the Writ Appeal is allowed, the order of the learned Judge is set aside and the writ petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not preclude the respondent from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, arises later or if any of the rule as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated. No costs. Consequently, connected miscellaneous petition is closed.”

4. In view of the above, this writ petition is allowed and the first respondent is directed to return the driving license to this petitioner within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

08.11.2023

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

Note: Issue order copy on **09.11.2023.**



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- 2.The Inspector of Police,
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B.PUGALENDHI, J.

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Order made in
W.P(MD)No.26432 of 2023 and
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