



W.P.(MD)No.27813 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P.(MD)No.27813 of 2023**

J.Manickam

... Petitioner

vs

1. The Regional Transport Officer,  
The Regional Transport Office,  
Srirangam,  
Trichy.

2. The Inspector of Police,  
Inamkulathur Police Station,  
Inamkulathur,  
Trichy District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, directing the first respondent to return the driving license of the petitioner bearing D.L.No.TN 45-19870002671 forthwith.



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W.P.(MD)No.27813 of 2023

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.G.Surya Ananth,  
Additional Government Pleader for R1  
Mr.B.Thanga Aravindh,  
Government Advocate (Crl.side)

### **ORDER**

This writ petition is filed for a Mandamus, directing the respondents to return the petitioner's driving licence bearing D.L.No.TN 45-19870002671, within a stipulated time.

2. The learned counsel appearing for the petitioner submits that the petitioner is working as a Driver in the Tamil Nadu State Transport Corporation (Kumbakonam) Limited. When he was driving a bus on 21.10.2023, an accident had occurred near Vellivadi bus stand, in which, a person succumbed. On the complaint of the victim's son, the second respondent Police registered a case against the petitioner in Crime No.69 of 2023 for the offence punishable under Sections 304 A and 279 IPC and also seized the petitioner's driving licence and handed



W.P.(MD)No.27813 of 2023

over the same to the first respondent, for taking necessary action against the petitioner. He further submits that the petitioner is not responsible for the said accident, since there was no rash and negligent driving on the part of the petitioner and he can establish his case during the trial. He further submits that the first respondent is also attempting to impound the petitioner's licence even before the filing of final report in Crime No.69 of 2023 and if any action is taken by the first respondent, then, the petitioner would be prejudiced. In support of his submission, he has also relied upon the Judgment of a Division Bench of this Court in the case of ***P.Sethuram vs. The Licensing Authority, Regional Transport Officer, Dindigul***, reported in ***2010 WLR 100***.

3. Mr.G.Surya Ananth, learned Additional Government Pleader takes notice for the first respondent and Mr.B.Thanga Aravindh, learned Government Advocate, takes notice on behalf of the respondents.



W.P.(MD)No.27813 of 2023

4. In the Judgment of a Division Bench of this Court in

***P.Sethuram vs. The Licensing Authority, Regional Transport Officer, Dindigul***, reported in ***2010 WLR 100***, relied on by the learned counsel for the petitioner, it has been held as follows:

“8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a driving licence, if any of the contingencies prescribed in Clauses (a) to (h) of Sub-section (1) of Section 19 arises. Moreover, the power u/s.19(1) can be invoked only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.

9. But in the case on hand, the licence of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice u/s.19(1) of the Act, after getting a report from the police. Therefore, the impounding of the licence has actually preceded the issue of show cause notice.

10. Apart from the above, there is no allegation,



WEB COPY



W.P.(MD)No.27813 of 2023

either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall.

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.



W.P.(MD)No.27813 of 2023

WEB COPY

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.”

5. Following the same, this Writ Petition is disposed of with a direction to the first respondent to return the driving licence to the petitioner, within a period of 10 days from the date of receipt of a copy of this order. There shall be no order as to costs.

**24.11.2023**

Index : Yes / No.

Internet: Yes / No.

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W.P.(MD)No.27813 of 2023

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W.P.(MD)No.27813 of 2023

**B.PUGALENDHI, J.**

ssb

**W.P.(MD)No.27813 of 2023**

**24.11.2023**