



W.P(MD)No.31303 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.31303 of 2023

VA.Subramanian

... Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Office,
Kulithalai.

2.The Inspector of Police,
Mayanoor Police Station,
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to return the original driving licence No.TN-47-19950003264 of the petitioner to him forthwith.

For Petitioner : Mr.A.Balaji

For Respondent No.1 : Mr.K.S.Selvaganesan
Additional Government Pleader

For Respondent No.2 : Mr.Albert James
Government Advocate (Crl. Side)



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W.P(MD)No.31303 of 2023

ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Mandamus, directing the first respondent to return the original driving license No.TN-47-19950003264 of the petitioner to him forthwith.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3.Heard Mr.A.Balaji, learned counsel appearing for the petitioner, Mr.K.S.Selvaganesan, learned Additional Government Pleader, who takes notice for the first respondent and Mr.Albert James, learned Government Advocate (Criminal Side), who takes notice for the second respondent and perused the materials available on record.

4.The petitioner was issued with driving license on 14.08.1995. Thereafter, he was working as a Driver in the Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Karur Region. On 06.12.2023, he was allotted to work in a bus bearing Registration No.TN-45-N-4002 plying between Karur to Trichy and his shift work



W.P(MD)No.31303 of 2023

time was from 05.05 a.m. to 02.20 a.m., on the next day. During the said trip unfortunately the petitioner caused an accident to one Ganesan, son of Mottaiappa Gounder at Karur. Immediately, an ambulance was called and the victim was taken to the Government Hospital, Karur and F.I.R was registered at Mayanoor Police Station in Crime No.377 of 2023 for the accident and the petitioner was made as an accused. On 11.12.2023, the petitioner's bus was produced for inspection before the Motor Vehicle Inspector at the office of the first respondent by the second respondent. In the course of the inspection, the second respondent police seized the petitioner's driving license and handed over the same to the Motor Vehicle Inspector, who in turn gave it to the first respondent. On 13.12.2023, the petitioner made a representation to the first respondent requesting to return his driving license. However, the first respondent declined to return his driving license under the guise of initiating action against the petitioner under the Motor Vehicles Act. Since the said representation has not been considered so far, the present Writ Petition has been filed.



W.P(MD)No.31303 of 2023

WEB COPY

5.The learned Additional Government Pleader appearing for the first respondent submitted that a show-cause notice is yet to be issued for conducting disciplinary enquiry as against the petitioner.

6.However, this issue is no more *res integra*. In view of the order passed by the Hon'ble Division Bench of this Court in ***W.P(MD)No.176 of 2009, dated 22.06.2009*** in the case of ***(S.Murugesan Vs. The Licensing Authority, the Regional Transport Officer, Trichy)***, the respondent/authority has no power to physically impound the driving license without conducting an enquiry and concluding the same as against the petitioner. Hence, the physical seizing or confiscating of the driving license by the second respondent and handing over the same to the first respondent is per se illegal.

7.Accordingly, the Writ Petition stands allowed and the first respondent is directed to return the driving license to the writ petitioner on production of the copy of this order. However, I make it clear that this order will not prevent the first respondent from conducting an enquiry and based on the enquiry report, the first



W.P(MD)No.31303 of 2023

respondent is at liberty to proceed further and if necessary, impound the driving license of the petitioner. There shall be no order as to costs.

28.12.2023

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

To

- 1.The Regional Transport Officer,
The Regional Transport Office,
Kulithalai.
- 2.The Inspector of Police,
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W.P(MD)No.31303 of 2023

L.VICTORIA GOWRI, J.

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W.P(MD)No.31303 of 2023

28.12.2023