



WEB COPY



W.P.No.32155 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.32155 of 2024
and W.M.P.No.34915 of 2024

Uma Magesh

... Petitioner

-Vs-

1. The Regional Transport Officer/
Licensing Authority,
Transport Department,
Red Hills, Chennai.

2. Inspector Of Police,
Red Hills Traffic Investigation Wing,
Madhavaram, Milk Farm,
Chennai- 600 051.
(Crime No.520/ 2024)

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the first Respondent to return forthwith Petitioner original driving licence bearing No.TN 05 20050013107, without any condition and without any endorsement and within a specified time as may be fixed by this Hon'ble Court.

For Petitioner	: Mr.S.Sakthivel
For R1 and R2	: Mr.V.Manoharan
	Additional Government Pleader

ORDER



W.P.No.32155 of 2024

This writ petition has been filed for direction directing the first Respondent to return the Petitioner original driving licence bearing No.TN 05 20050013107, without any condition and without any endorsement and within a specified time as may be fixed by this Hon'ble Court.

2. Heard both sides and perused the materials available on record.

3. The petitioner is a driver in the Tamil Nadu State Transport Corporation, Chennai. While he was driving the bus bearing Registration No.TN 01 AN 2239 between Redhills and Pazhaverkaadu bus stand, a 78 years old lady crossed the median in the parking slot. Though the petitioner tried to avoid the accident, the old lady had fallen in front of the bus and she died. Pursuant to the said accident, on the complaint lodged by the petitioner, FIR has been registered in Crime No.520 of 2024 under Sections 281, 106(1) of BNS Act. Pursuant to the registration of FIR, the second respondent forcibly seized his original license on 30.08.2024 and handed over to the first respondent who is being the licensing authority. Now, the petitioner's original driving license has been seized and withheld by the first respondent.

4. The learned counsel for the petitioner would submit that the first respondent has no jurisdiction to hold the license of the petitioner without



W.P.No.32155 of 2024

passing any order under Section 19(1) of the Motor Vehicles Act, either disqualifying or suspending or revoking the petitioner's license. Mere keeping the original license of the petitioner is clear violation of Articles 14 and 21 of Constitution of India. The criminal proceeding is in the FIR stage and no conviction has been made as against the petitioner pursuant to the registration of FIR. That apart, the accident did not occur due to the petitioner's negligence and it had taken place only due to the negligence of the deceased. Therefore, the petitioner is not responsible for the accident.

5. A perusal of the provision under Section 19(1) of the Motor Vehicles Act, it is clear that the Licensing Authority has the power to revoke any license or disqualify a person from holding and obtaining driving license for a specified period, if any of the contingencies prescribed in Clauses (a) to (h) of sub-section (1) of Section 19 arises. It is relevant to extract Section 19(1) of the Motor Vehicles Act.

“ 19. Power of licensing authority to disqualify from holding a

driving licence or revoke such licence . - (1) If a licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard, that the –

(a) is a habitual criminal or a habitual drunkard ; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the



W.P.No.32155 of 2024

*Narcotic Drugs and Psychotropic Substances Act, 1985 ;
or*

WEB COPY

(c) is using or has used a motor vehicle in the commission of a cognizable offence ; or

(d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public ; or

(e) has obtained any driving licence or a licence to drive a particular class or description of motor vehicle by fraud or misrepresentation ; or

(f) has committed any such act which is likely to cause nuisance or danger to the public, as may be prescribed by the Central Government, having regard to the objects of this Act; or

(g) has failed to submit to, or has not passed, the tests referred to in the proviso to sub-section (3) of section 22 ; or

(h) being a person under the age of eighteen years who has been granted a learner's licence or a driving licence with the consent in writing of the person having the care of the holder of the licence and has ceased to be in such care, it may, for reasons to be recorded in writing, make an order –

(i) disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence ; or

(ii) revoke any such licence.”

That apart, it can be invoked only after giving an opportunity of hearing to the holder of license and the reasons to be recorded in writing.

6. Admittedly, no show cause notice was issued to the petitioner and only FIR is pending as against him, pursuant to the accident. Admittedly, it is an accident and the petitioner's license was not used for any illegal activities to attract the provision under Section 19(1) of the Motor Vehicles Act. The



W.P.No.32155 of 2024

petitioner did not commit any offence mentioned under Section 206(4) of the Motor Vehicles Act, so as to seize and hand over the same to the first respondent under Section 19(1)(a) of the Motor Vehicles Act. Therefore, the first respondent has no authority to keep the license of the petitioner.

7. In view of the above, the first respondent is directed to return the original driving license of the petitioner bearing No.TN 05 20050013107 to the petitioner, forthwith.

8. Accordingly, this writ petition is allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

28.10.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
mn

G.K.ILANTHIRAIYAN. J.

mn

To
1. The Regional Transport Officer/
Licensing Authority,
Transport Department,
Red Hills, Chennai.



W.P.No.32155 of 2024

2. Inspector Of Police,
Red Hills Traffic Investigation Wing,
Madhavaram, Milk Farm,
Chennai- 600 051.

W.P.No.32155 of 2024

28.10.2024