



W.P.(MD)No.2423 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.2423 of 2024

P.Selvaraj

... Petitioner

Vs

1.The Regional Transport Officer,
Regional Transport Office,
Aruppukottai,
Virudhunagar.

2.The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the 1st respondent to return the petitioner's driving licence bearing No.TN58-19980006807 to the petitioner forthwith.

For Petitioner	:	Mr.S.Arunachalam
For R1	:	Mr.G.V.Vairam Santhosh Additional Government Pleader
For R2	:	Mr.M.Vaikkam Karunanidhi Government Advocate (Crl. Side)



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ORDER

This writ petition is filed for a Mandamus, directing the Regional Transport Officer / Licensing Authority to return the petitioner's driving licence, which was seized by the Inspector of Police, A.Mukkulam Police Station, Virudhunagar District and handed over to the Regional Transport Officer, Virudhunagar on the ground that due to the negligence of the petitioner, a fatal accident had occurred.

2.The learned Counsel for the petitioner submits that the petitioner is working as Driver in the Tamil Nadu State Transport Corporation. While he was on duty as Driver, a fatal accident had occurred due to which, a case was registered as against the petitioner in Crime No.2 of 2024, under Sections 279 and 304 (A) IPC for causing death by negligence and the respondent Police seized the driving license of the petitioner and forwarded the seized licence to the Regional Transport Officer concerned. The Regional Transport Officer



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is retaining the driving licence of the petitioner. The learned Counsel further submit that the petitioner is not convicted by any criminal court and the petitioner did not commit any offence under the Motor Vehicles Act. Further final report has not been filed so far in the criminal case registered against the petitioner. Therefore, the respondent cannot retain the driving licence of the petitioner.

3.The learned Additional Government Pleader appearing for the Transport Authority submits that the petitioner is the accused of an offence under Sections 279 and 304(A) IPC and it is a cognizable offence. If any cognizable offence is committed, the authority after giving reasonable opportunity to the person concerned is empowered to suspend the licence as per Section 19 of the Motor Vehicles Act, 1981 read with Rule 21 of the Central Motor Vehicle Rules, 1989. Accordingly, the petitioner was issued with a show cause notice. However, the petitioner without offering his explanation to the show cause notice, approached this Court with the above prayer. Therefore, the writ petition is liable to be dismissed.



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4.This Court considered the rival submissions made and perused the materials placed on record.

5.The petitioner is the Driver of the Tamil Nadu State Transport Corporation. While he was on duty in driving the bus, an accident had occurred and a case was registered as against the petitioner under Sections 279 and 304(A) IPC for causing death by negligence and subsequently a show cause notice was issued to the petitioner. At this stage the petitioner has approached this Court stating that it is not for the Regional Transport Officer to decide the guilt of the petitioner. Further the final report in the criminal case has not been filed so far.

6.A Division Bench of this Court in ***[P.Sethuraman Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Officer, Dindigul]*** in 2010 Writ Law reporter 100 has held as under:

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“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 under Section 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 under Section 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.”

7.A similar view has been taken by another Division Bench in ***S.Murugan Vs Licensing Authority [WA(MD)No.176 of 2009 dated 22.06.2009 Madurai Bench of Madras High Court]***. However a



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Division Bench of this Court in ***S.Krishnan Vs The Licensing***

Authority [in WA(MD)No.783 of 2008] has held as follows:

“Section 19 itself gives the power to the authority to disqualify a person from holding a driving licence when the licensing authority is satisfied after giving notice to the licensee and enumerated 10 disqualification clauses. One among them was Section19(1)(C) which clearly states that when the vehicle is used and a cognizable offence is made out all that is required is the authority should satisfy itself whether the petitioner has utilized the vehicle which resulted in a cognizable offence. Admittedly, this appellant used the vehicle and caused the death of a person.”

8.Following the above cited judgments, a single judge of this Court in WP No.11 of 2023 has discussed the issue elaborately. The seizure power of the police under Section 206 of the Act is limited only in circumstances that if the offence has been committed any of the Sections under Sections 183, 184, 185, 189, 190, 194 (c) 194(d) and 194(e) under Sub Section 4 of Section 206 of the Motor Vehicle Act



and therefore, held that the power of seizure vested with the police under Section 206 is not automatic. The officer has to record the reasons to believe any of the circumstances narrated under Section 206 as directed he can exercise such power. Recording so this Court has held as under :

“19. In such a view of the matter, this court is of the view that seizure of the licence to take action under section 19 is not a mandatory. Irrespective of licence being surrendered or produced before the authorities, the action can be initiated by the authorities under Section 19 on the report submitted by the police. Therefore, this Court is of the view that merely on the basis of the FIR is registered particularly in the other IPC offences, the police officer cannot have power to seize the licence. If at all any action is contemplated under Section 19, they may forward a report to the concerned RTA to take action under Section 19 of the Act. On such report the licensing authority is satisfied any of the contingencies in clauses 1(a) to (h) of Section 19 and sub~clause 1A of the Act and after giving an opportunity to the holder of the licence may pass an order as contemplated in Section 19 of the Act.



1. Accordingly this Court hold that the seizure of the licence in the given case is not valid in the eye of law and the 2nd Respondent is directed to return the licence within one week from the date of receipt of copy of this order. It is well open to the 1st Respondent to send a report to the RTA for taking appropriate action. The RTA may after providing opportunity to the petitioner may proceed under Section 19 of the M.V. Act and to pass an order on merits.”

9. In view of the above discussion, this Court is of the view that the respondent police cannot seize the driving licence. Further it is not for the Regional Transport Authority to pre-judge the guilt of the petitioner, even before filing of the final report by the respondent Police in the criminal case registered against the petitioner. Therefore, this writ petition is disposed of in the following terms:

- i. The respondent RTO is directed to return the driving licence of the petitioner within a period of one week from the date of receipt of a copy of this order.



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ii. It is open to the respondent Police to forward the relevant materials to the RTO after filing of the final report in the criminal case registered against the petitioner.

iii. On receipt of any such materials from the respondent Police, the respondent RTO shall take appropriate action as stipulated under Section 19 of the Motor Vehicles Act. No costs.

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NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.
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To

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

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Order made in
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