



W.P.(MD)No.5058 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 04.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.5058 of 2024
and W.M.P.(MD)Nos.4858 and 4859 of 2024

R.Senthilkumar

... Petitioner

versus

1. The Regional Transport Officer (RTO),
Office at Regional Transport Office,
Srirangam,
Tiruchirappalli District.

2. The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichirappalli Region,
Periyamilaguparai,
Tiruchirappalli District.

3. Special Sub-Inspector of Police,
Kattuputhoor Police Station,
Kattuputhoor (town),
Thottiyam Taluk,
Tiruchirappalli District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,



W.P.(MD)No.5058 of 2024

seeking for the issuance of Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned show cause notice of the 1st respondent File No.001860/A2/2024 dated 22.01.2024 and quash the same and consequently, direct the first respondent herein to return the original driving license No.TN28 20040004591 to the petitioner herein forthwith.

For Petitioner : Mr.N.Sudhagar Nagaraj
For R1 : Mr.R.Suresh Kumar,
Additional Government Pleader
For R2 : Mr.K.Jagadeesh Kumar
For R3 : Mr.M.Vaikkam Karunanidhi,
Government Advocate (Crl. Side)

ORDER

This writ petition is filed as against the impugned show cause notice issued by the 1st respondent/the Regional Transport Officer, Srirangam, Tiruchirappalli, calling for an explanation from the petitioner as to why his driving license should not be disqualified under Section 19 of the Motor Vehicles Act, 1988.

2. The learned Counsel for the petitioner submits that the petitioner is working as Driver in the Tamil Nadu State Transport



W.P.(MD)No.5058 of 2024

Corporation. While he was driving a bus bearing Reg.No.TN45 N 3837 on 14.01.2024, an accident had occurred, due to which, a case was registered as against the petitioner under Sections 279 and 304 (A) IPC. The respondent Police seized the petitioner's driving license and handed over the same to the first respondent. Now, the first respondent has issued the impugned show cause notice.

3. The learned counsel appearing for the petitioner further submits that while the petitioner was driving the bus on 14.01.2024, suddenly, a lady, who suffered from mental retardation, crossed the road and though the petitioner suddenly applied the break, the bus dashed against the lady and the accident had occurred. He further submits that the petitioner is not involved in any other case. The first respondent, by referring the provisions of Section 19 of Motor Vehicles Act, 1988, read with Rule 21 of Central Motor Vehicles Rules 1989, has initiated action to impound the petitioner's driving licence, for which, the impugned show cause notice has been issued. He further



W.P.(MD)No.5058 of 2024

submits that the deceased in this case is a mentally retarded person and the investigation in this case is yet to be completed. Only on the filing of final report, it would reveal that whether there is any negligence on the part of the petitioner and in the absence of any material that there is negligence on the part of the petitioner in the said accident, it is not proper on the part of the first respondent to initiate action for impounding the driving licence.

4. The learned Additional Government Pleader appearing for the first respondent and the learned Government Advocate (Crl. Side) appearing for the third respondent fairly conceded that the person, who died in the accident, is a mentally retarded person and the investigation is going on.

5. This Court considered the rival submissions made.



W.P.(MD)No.5058 of 2024

6. The petitioner is the Driver of the Tamil Nadu State Transport Corporation. While he was on duty in driving the bus, the accident had occurred and a case was registered as against the petitioner under Sections 279 and 304(A) IPC and the petitioner's driving license was seized by the 3rd respondent and forwarded to the first respondent and subsequently, the first respondent, by referring the provisions of Section 19 of Motor Vehicles Act, 1988, read with Rule 21 of Central Motor Vehicles Rules 1989, has initiated action to impound the petitioner's driving licence, for which, the impugned show cause notice has been issued. Admittedly, the deceased in this case is a mentally retarded person and investigation is yet to be completed.

7. 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:

“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.”

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



W.P.(MD)No.5058 of 2024

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

WEB COPY

“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.”

9. 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 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



W.P.(MD)No.5058 of 2024

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 and 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.



W.P.(MD)No.5058 of 2024

WEB COPY

20. 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.”

10. In view of the above discussion, this Court is of the view that the respondent Police cannot seize the driving licence. Further, in the absence of any material that there is negligence on the part of the petitioner in the said accident, it is not proper on the part of the first respondent to initiate action for impounding the petitioner's driving licence.



W.P.(MD)No.5058 of 2024

11. Accordingly, this writ petition is disposed of in the following

terms:

- i. The first respondent shall withhold the enquiry proceedings till the final report is filed.
- ii. The first respondent 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.
- iii. 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 petitioner.
- iv. On receipt of any such materials from the respondent Police, the first respondent/RTO shall take appropriate action as stipulated under Section 19 of the Motor Vehicles Act. No costs. Consequently connected miscellaneous petitions are closed.

04.03.2024

NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.

ogy

10/12



W.P.(MD)No.5058 of 2024

WEB COPY

To

1. The Regional Transport Officer (RTO),
Office at Regional Transport Office,
Srirangam,
Tiruchirappalli District.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichirappalli Region,
Periyamilaguparai,
Tiruchirappalli District.
3. Special Sub-Inspector of Police,
Kattuputhoor Police Station,
Kattuputhoor (town),
Thottiyam Taluk,
Tiruchirappalli District.



WEB COPY



W.P.(MD)No.5058 of 2024

B.PUGALENDHI, J.

ogy

W.P.(MD)No.5058 of 2024

04.03.2024