



W.P.(MD)No.6096 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.6096 of 2024

A.Palanisamy

... Petitioner

versus

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

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the first respondent to return the petitioner's driving licence bearing D.L.No.TN47 20120002744 forthwith.



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W.P.(MD)No.6096 of 2024

For Petitioner : Mr.S.Arunachalam
For R1 : Mr.R.Suresh Kumar,
Additional Government Pleader
For R2 : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)

ORDER

This writ petition is filed for a Mandamus, directing the the first respondent to return the petitioner's driving licence bearing D.L.No.TN47 20120002744 within a stipulated time.

2. The learned counsel appearing for the petitioner submits that the petitioner is working as Driver on daily wage basis, in a Private Transport Agency. When he was driving a vehicle bearing Reg.TN47AJ7399 on 17.02.2024, an accident had occurred and the victim had succumbed to the injuries. Subsequently, the second respondent Police has registered a case against the petitioner in Crime No.48 of 2024 for the offence punishable under Sections 279 and 304(A) IPC and also seized the petitioner's driving licence and forwarded the same to the first respondent for taking action. Pursuant



W.P.(MD)No.6096 of 2024

to the same, the first respondent has sent a show cause notice dated 19.02.2024, calling upon the petitioner to submit his explanation as to why his driving licence should not be disqualified under Section 19 of the Motor Vehicles Act. Though the petitioner has submitted a representation on 26.02.2024 that there is no negligence on his part, the first respondent has refused to return the driving licence. Hence, the petitioner is before this Court.

3. In support of his submission, the learned counsel appearing for the petitioner 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***.

4. The learned Government Advocate (Crl. Side) appearing for the respondents submits that the investigation is still pending.



W.P.(MD)No.6096 of 2024

5. The 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, has 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.6096 of 2024

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.6096 of 2024

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.”

6. Following the same, this writ petition is disposed of with a direction to the second respondent to return the petitioner's driving licence, within a period of 10 days from the date of receipt of a copy of this order. No costs.

20.03.2024

NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.

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W.P.(MD)No.6096 of 2024

WEB COPY

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W.P.(MD)No.6096 of 2024

B.PUGALENDHI, J.

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W.P.(MD)No.6096 of 2024

20.03.2024