

WP(MD)Nos.29721 of 2023, etc.,

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)Nos.29721, 30189 and 30690 of 2023
and 476 of 2024**

WP(MD)No.29721 of 2023

P.Prabu

... Petitioner

Vs

1.The Regional Transport Officer,
The Regional Transport Office,
Madurai North Zone, Madurai District.

2.The Inspector of Police,
Madurai TIW II Police Station,
Madurai District.

... Respondents

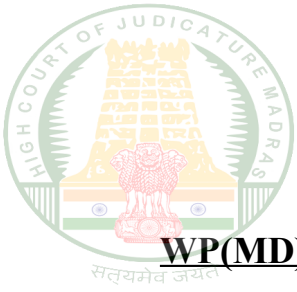
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 1st respondent to return the petitioner's original driving license within a time limit that may be fixed by this Court.

For Petitioner : Ms.D.Ramya

For Respondent : Mr.A.Baskaran,

No.1 Additional Government Pleader

For Respondent : Mr.M.Vaikkam Karunanidhi
No.2 Government Advocate (Crl Side)



WP(MD)Nos.29721 of 2023, etc.,

WP(MD)No.30189 of 2023

WEB COPY
A.Velsamy

... Petitioner

Vs

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

2. The Inspector of Police,
Eppodumvendran Police Station,
Eppodumvendran.

... 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 driving license of the petitioner bearing D.L.No.AP01119900010459 forthwith.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.R.Suresh Kumar

No.1 Additional Government Pleader

For Respondent : Mr.M.Vaikkam Karunanidhi

No.2 Government Advocate (Crl Side)

WP(MD)No.30690 of 2023

E.Salaimanimadhavan

... Petitioner

Vs

1. The Regional Transport Officer,
Unit Office of the Regional Transport Office,
Lalgudi, Trichy District.



WP(MD)Nos.29721 of 2023, etc.,

2. The Inspector of Police,
Inamkulathur Police Station,
Inamkulathur, Trichy 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 driving license of the petitioner bearing D.L.No.TN 45 19861000096 forthwith.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.G.V.Vairam Santhosh

No.1 Additional Government Pleader

For Respondent : Mr.M.Vaikkam Karunanidhi

No.2 Government Advocate

WP(MD)No.476 of 2024

R.Rajamanickam

... Petitioner

Vs

1. The Regional Transport Officer,
Sivagangai,
Sivagangai District.

2. The Sub-Inspector of Police,
Thirupathur Town Police Station,
Sivagangai 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 original driving license No.TN 47 19970001619 of the petitioner to him forthwith.



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WP(MD)Nos.29721 of 2023, etc.,

For Petitioner : Mr.A.Balaji
For Respondent : Mr.A.Baskaran,
No.1 Additional Government Pleader
For Respondent : Mr.M.Vaikkam Karunanidhi
No.2 Government Advocate (Crl Side)

ORDER

These writ petitions are filed for a writ of mandamus directing the respondents to return the driving license of the petitioners, which were seized by the officials, subsequent to the registration of the criminal cases for the offence under Section 304 (A) IPC.

2.The learned Counsel for the petitioners submit that the petitioners are working as Drivers in the Tamil Nadu State Transport Corporation. While they were on duty as Drivers, accidents had occurred due to which, cases were registered as against these petitioners under Section 304 (A) IPC for causing death by negligence and the respondent Police seized the driving license of these petitioners and forwarded the seized licenses to the Regional Transport Officers concerned. The Regional Transport Officers are retaining the driving licenses of the petitioners. The learned Counsel further submit that the petitioners are not

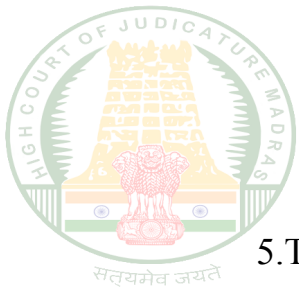


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convicted by any criminal court and the petitioner did not committ any offence under the Motor Vehicles Act. Further final reports have not been filed so far in the criminal cases registered against these petitioners. Therefore, the respondents cannot retain the driving licenses of the petitioners.

3.The learned Additional Government Pleader appearing for the Transport Authority submits that the petitioners are accused of an offence under Section 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 license as per Section 19 of the Motor Vehicles Act, 1981 read with Rule 21 of the Central Motor Vehicle Rules, 1989. Accordingly the petitioners were issued with show cause notices. However, the petitioners without offering their explanation to the show causes notices, approached this Court with the above prayer. Therefore, the writ petitions are liable to be dismissed.

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



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5.The petitioners are the Drivers of the Tamil Nadu State Transport Corporation. While they were on duty in driving the bus, accidents had occurred and cases were registered as against these petitioners under Section 304(A) IPC for causing death by negligence and subsequently show cause notices were issued to the petitioners. At this stage the petitioners have approached this Court stating that it is not for the Regional Transport Officer to decide the guilt of the petitioners. Further the final reports in the criminal cases have 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:

“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.



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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 Division Bench of this Court in S.Krishnan Vs The Licensing Authority [in WA(MD)No.783 of 2008] has held as follows:

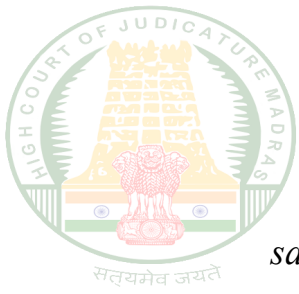
“Section 19 itself gives the power to the authority to disqualify a person from holding a driving licence when the licensing authority is satisfied after giving notice to the licensee and enumerated 10 disqualification clauses. One among them was Section19(1)(C) which clearly states that when the vehicle 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.”



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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

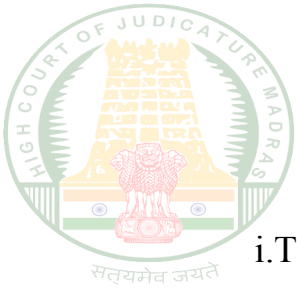


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satisfied any of the contingencies in clauses 1(a) to (h) of Section 19 and sub~clause 1A of the Act and after giving an opportunity to the holder of the licence may pass an order as contemplated in Section 19 of the Act.

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.”

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



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

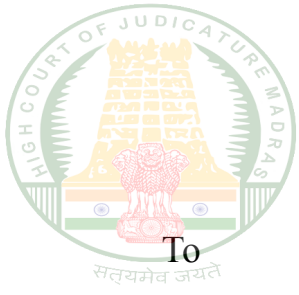
ii.It is open to the respondent Police to forward the relevant materials to the RTO after filing of the final reports in the criminal cases registered against these petitioners.

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.

12.01.2024

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

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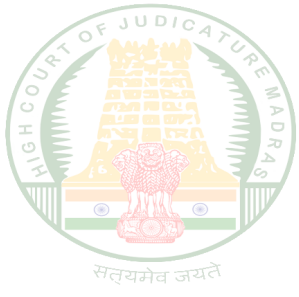


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B.PUGALENDHI, J.

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