

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2015

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.NO.3234 OF 2015

and

M.P.Nos.1 of 2015

K.Rajendran

...Petitioner

Vs.

The Regional Transport Officer,
Attur, Salem District.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records in impugned order dated 13.01.2015 on the file of respondent herein and quash the same as illegal and direct the respondent to make endorsement in the Driving License of the petitioner to Drive Heavy Vehicle carrying Hazardous Substances (Goods) to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.Dig Vijaya Pandian
Addl. Govt. Pleader

O R D E R

The petitioner has come forward with this petition seeking to quash the order dated 13.01.2015 and to direct the respondent to make endorsement in the Driving License of the petitioner to drive Heavy Vehicle carrying Hazardur Substances (Goods).

2. The case of the petitioner is that he was driving heavy vehicles since 1983 and driving heavy vehicle carrying hazardous substances, since 1994. In 2008, he met with an accident, wherein, he lost three phalanges in the right hand and it has nothing to do with the grip to drive the vehicle.

3. According to the petitioner, he was subjected to medical examination by the Doctors, wherein, he was found to be fit to drive the vehicle and accordingly, driving license was given to him and it is valid upto 05.04.2015. When he approached the authorities for getting endorsement in his license to drive the heavy vehicle, the respondent has rejected the request of the petitioner, by the impugned order dated 13.01.2015, ignoring the Doctor's fitness certificate given in his favour to drive the vehicle. It is submitted that in view of the impugned order, he was deprived of his livelihood and the action of the respondent is violative of Article 21 of the Constitution of India.

4.1. Per contra, the respondent filed detailed counter-affidavit, wherein, it is stated that as per Section 15 of the Motor Vehicles Act, 1988, when there is an application for renewal of driving license after the age of 40 years, it shall be accompanied by a medical certificate. Depending upon the Doctor's certificate, the authority would consider whether to renew the license or not. In this case, the Assistant Licensing Authority-cum-Motor Vehicles Inspector, at the time of examining the petitioner during driving, noticed that the petitioner lost three middle fingers on his right hand and while using or changing the gear, the vehicle's full control lies on the right hand with handling the steering and the petitioner may not have control over the vehicle during handling the steering with one hand, while driving the vehicle as while handling the steering the thumb and three middle fingers are required and since the petitioner is disabled of three middle fingers, permitting him to drive the vehicle would endanger the public and the road-users.

4.2. The respondent further submitted that the petitioner was involved in a road accident and a case was registered against him for the offence under Section 304-A IPC due to his negligent driving and the punishment was also awarded against him under Section 19(1) of the Motor Vehicles Act, 1988 thereby, his driving license was also suspended for a period of six months till 22.12.2014 and the same has been endorsed in the driving license.

4.3. In this situation, if the petitioner is allowed to drive the hazardous heavy vehicle, due to his disability on his right hand fingers, it may endanger the public, pedestrians and other road-users. Hence, the act of the respondent not to renew the license was perfectly justified and the petitioner is not entitled to any relief, sought for in this writ petition.

5.1. In reply, the learned counsel for the petitioner drew the attention of this Court that the petitioner underwent training in

Ashok Leyland Driver Training Institute, wherein, it was certified that the petitioner has successfully completed the training course on Safe Transportation of Hazardous Goods (R) for a day on 12.01.2015 and the said certificate is valid upto 11.01.2016. The petitioner has also produced the driving license to show that it is valid upto 05.04.2015 and the question of renewal now does not arise and he has got sufficient time to get it renewed. It is submitted that driving license was not cancelled, but it was only suspended.

5.2. The certificate of physical fitness was issued by three Doctors, out of whom, one is M.S. (Orthopedics)/Associate Professor in Government Mohan Kumaramangalam Medical College and Hospital, Salem. The three doctors found that he lost three fingers (phalanges) and his hand grip is good and also he is fit to drive the heavy motor vehicle. It is submitted that even though the Doctors certificate is of the year 2012, insisting fresh doctors certificate before renewal is not correct.

6. I have considered the submissions of both sides and perused the materials on record.

7. Except the two grounds, namely, that the doctors had given him certificate that he is fit to drive the heavy vehicle and hence, the act of the respondent is arbitrary and unjust and that the act of the respondent is violative of Article 21 of the Constitution, the petitioner has not raised any other grounds.

8. However, at the outset, it is relevant to note that when the petitioner applies for renewal of the driving license that expires on 05.04.2015, the authority is empowered to insist the medical certificate to ascertain the physical fitness. Admittedly, the petitioner lost one phalanx in all his three fingers in the year 2008. Thereafter, he has been driving the vehicle, except for the short period of suspension, that has been imposed by the authorities. Hence, the action of the respondent in rejecting the renewal of license amounts to deprivation of livelihood of the petitioner and as such, I am of the view that the impugned order dated 13.01.2015 is liable to be quashed.

9. In the result, this writ petition is allowed and the impugned order is set aside and the petitioner may be permitted to drive the heavy vehicle, which he was driving prior to the suspension and during the currency of the driving license as the driving license was not cancelled, but it was only suspended. This Court makes it clear that if the petitioner seeks for renewal of his heavy vehicle

driving license, the petitioner shall comply with the mandatory provisions of the Motor Vehicles Act, 1988, including that of the production of medical certificate issued by the competent authority. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

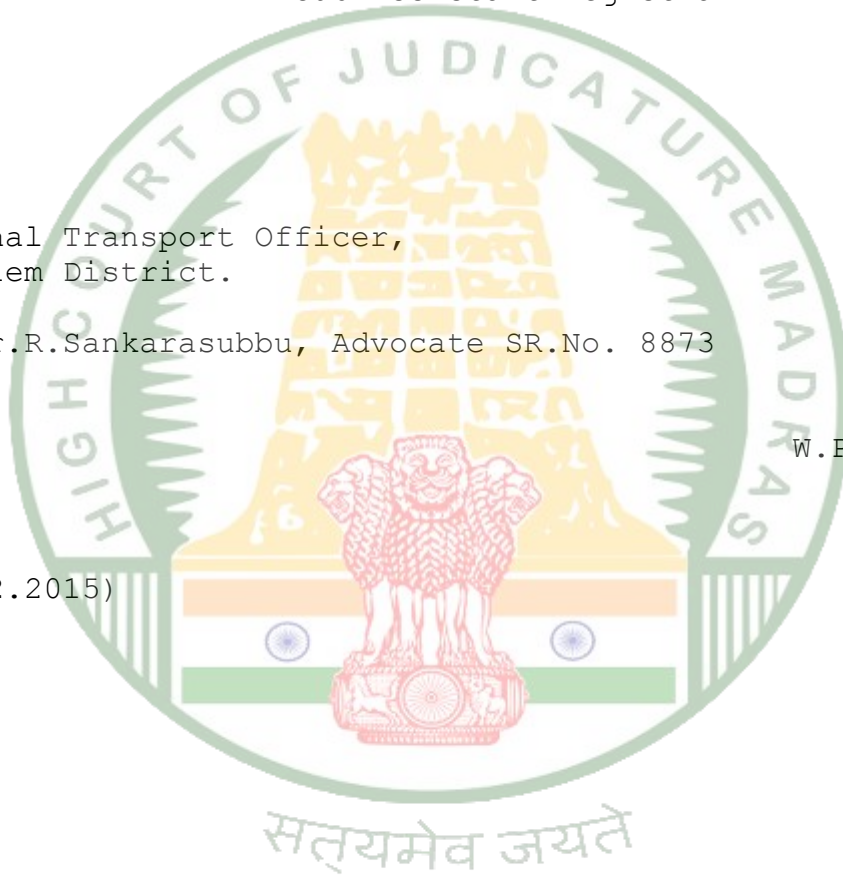
The Regional Transport Officer,
Attur, Salem District.

1 CC to Mr.R.Sankarasubbu, Advocate SR.No. 8873

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PSI (23.02.2015)



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