

In the High Court of Judicature at Madras

Dated : 21.7.2016

Coram :

The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition No.26316 of 2013 & MP.No.1 of 2013

G.Suresh Babu

...Petitioner

Vs

1.The Deputy Commissioner of
Transport, Villupuram.
(cause title amended as per order
of this Court dated 24.4.2015
by TRJ in MP.No.1 of 2015)

2.The Regional Transport Officer,
Arni, Tiruvannamalai District.

3.The Inspector of Police, D1 Police
Station, Chennai-5.

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus to
call for the records of the 1st respondent in
SE.Mu.A.No.2511/A4/2013 dated 14.8.2013, quash the same and
direct the respondents to restore the driving licence of the
petitioner issued on 9.7.1996 for driving four wheeler i.e. LMV
and two wheeler vide LMV - TRANS TN25Z19960000920.

For Petitioner : Mr.R.Ramachandran for
Mr.A.Chandrasekaran

For Respondents : Mr.A.Mohammed Mushtak, GA

WEB COPY
ORDER

Heard both. By consent, the writ petition itself is taken up
for final disposal.

2. The petitioner has been authorized to drive a transport
vehicle and was issued a driving licence by the Licensing
Authority at Arni. On 23.4.2013, when the Inspector of Police,
D1 Traffic Police Station, Triplicane, made a check on the

vehicle driven by the petitioner bearing Regn.No.TN-06-H-4374 near the State Guest House at Chepauk, it was found that the petitioner was under the influence of alcohol. He was produced before the Mobile Court where the petitioner admitted his guilt and paid a fine amount of Rs.2,000/-. Thereafter, proceedings were initiated under the provisions of the Motor Vehicles Act and the petitioner appeared before the second respondent. He is said to have admitted the guilt, but submitted that he is not a habitual drunkard or a person, who has come to the adverse notice of the Authorities on the earlier occasions.

3. Therefore, the petitioner stated that he may be pardoned. However, the second respondent invoked his power under Section 19(1)(a) of the Motor Vehicles Act, 1988 and cancelled the licence with effect from 20.5.2013. The appeal filed against the said order was also dismissed by the first respondent. The petitioner filed this writ petition challenging the order of the first respondent.

4. The contention raised by the petitioner that he had admitted his guilt and paid fine amount of Rs.2,000/- and that his licence should not have been cancelled, as he paid the fine amount is a flawed contention. The fact that in the prosecution initiated against the petitioner, the petitioner admitted his guilt and paid a fine amount, can have hardly any impact in the proceedings initiated under Section 19(1)(a) of the said Act. However, it has to be seen as to whether the Licensing Authority could have exercised the power under Clause (a) to Section 19(1) said Act.

5. Section 19 of the said Act deals with the power on the Licensing Authority to disqualify a person from holding a licence or revoke such a licence. In terms of Sub-Section (1) of Section 19 of the said Act, if the Licensing Authority is satisfied, after giving the holder of the driving licence, an opportunity of being heard, that he is a habitual criminal or habitual drunkard, for reasons to be recorded in writing, make an order

(i) disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence; or

(ii) revoking any such licence.

6. Admittedly, there is no such finding recorded either by the second respondent or by the first respondent in the impugned proceedings that the petitioner is a habitual criminal or habitual drunkard. In such circumstances, the second respondent

ought to have recorded reasons as to why he imposed the major penalty of revocation of licence. This having not been done, the impugned order requires interference and the matter requires to be reconsidered.

7. Accordingly, the writ petition is allowed and the impugned order is set aside. The matter is remitted back to the second respondent for fresh consideration, who shall afford an opportunity to the petitioner and examine as to whether the offence committed by the petitioner requires maximum penalty or as to whether an alternate penalty could be imposed. The second respondent shall also take into consideration the fact that from August 2013 onwards till today, the petitioner has not been able to drive any vehicle, especially when he was a taxi driver. The above exercise shall be completed by the second respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the above MP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Deputy Commissioner of Transport, Villupuram.
- 2.The Regional Transport Officer, Arni, Tiruvannamalai District.
- 3.The Inspector of Police, D1 Police Station, Chennai-5.

1 cc to Mr.A.Chandrasekar, Advocate, sr.41558
1 cc to Government Pleader, sr.41699

WP.No.26316 of 2013
and MP.No.1 of 2013

gj co
kra 05.08.2016

WEB COPY