



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.19466 of 2013

and

M.P. (MD) No.1 of 2013

R.Saravana Sundaravel

... Petitioner

Vs.

- 1.The Union of India,
by its Secretary,
Ministry of Transport,
New Delhi.
- 2.The State of Tamil Nadu,
by its Secretary,
Department of Transport,
Fort St. George,
Chennai - 9.
- 3.The Regional Transport Officer,
Collectorate Campus,
Tuticorin City,
Tuticorin.
- 4.The Central Co-Ordination Committee,
(Constituted under Persons with Disabilities)
(Equal Opportunities, Protection of Rights and Full
Participation Act, 1995),
Office of Minister of Welfare,
New Delhi.
- 5..The State Co-Ordination Committee,
(Constituted under Persons with Disabilities)
(Equal Opportunities, Protection of Rights and Full
Participation Act, 1995),
Office of Minister of Social Welfare,
Fort St. George,
Chennai - 9.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondent No.3 to provide Driving License for the Light Motor Vehicle to the petitioner within the time period stipulated by this Hon'ble High Court.

For Petitioner

<https://hcservices.ecourts.gov.in/hcservices/>

: Mr.Ajay Justice. S for
Mr.T.Lajapathi Roy



For 1st Respondent : Mr.K.Ashokumar
Central Government Standing Counsel

For Respondents : Mr.V.Muruganantham
3 & 5

For Respondents : No appearance
2 & 4

O R D E R

The prayer in the writ petition is for a Writ of Mandamus, directing the Respondent No.3 to provide Driving Licence for the Light Motor Vehicle to the petitioner within the time period stipulated by this Court.

2.The petitioner on 17.02.1990 met with an accident, with a result he got damage in his right hand, consequent of which his permanent disability was fixed by the medical authority concerned at 40%. Thereafter, he wanted to get driving licence to drive LMV vehicles, for which he applied on 18.10.2013 and the same was rejected by the 3rd respondent stating that since the right hand of the petitioner got damaged due to the accident, he could not show any signal and hence, his application was rejected. In view of the said rejection of driving licence in the aforesaid circumstances, the petitioner has come out with the present writ petition with the aforesaid prayer.

3.Heard both sides.

4.The learned counsel for the petitioner would contend that though the petitioner has met with an accident, with a result has some injury in right hand, that will not make him disentitle to get a driving licence. Even for disabled persons, licence cannot be refused to drive motor vehicles and necessary safeguarding provisions are available in the Motor Vehicles Act and the Rules framed thereunder. Therefore, the decision taken by the third respondent refusing the claim of the petitioner for grant of licence warrants interference by this Court.

5.Per contra, the learned Additional Government Pleader appearing for respondents 3 and 5 would contend that in fact the petitioner's application for licence was not rejected. Further, he invited the attention of this Court to the endorsement made in the application submitted by the petitioner, which has also been annexed as one of the document in the typed set of papers filed by the petitioner, wherein the concerned Transport Authority has made an endorsement stating that since there is disability in the right hand of the petitioner due to the accident, if he produce the medical certificate, his request for granting of license would be considered.



6. In this regard, the learned Additional Government Pleader also invited the attention of this Court to Rule 5 of the Central Motor Vehicle Rules, 1989 which read thus:

“5. Medical certificate. - (1) Every application for the issue of a learner's licence or a driving licence or for making addition of another class or description of a motor vehicle to a driving licence or for renewal of a driving licence to drive a vehicle other than a transport vehicle shall be accompanied by a self-declaration as to the physical fitness as in Form I and every such application for a licence to drive a transport vehicle shall be accompanied by a medical certificate in Form 1- A issued by a registered medical practitioner referred to sub-section (3) of Section 8.

(2) An application for a medical certificate shall contain a declaration in Form 1.

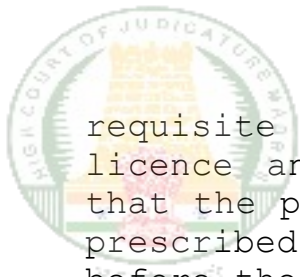
(3) A medical certificate issued in Form 1 - A shall be valid for a period of one year from the date of its issue. It shall be accompanied by a passport size copy of the photograph of the applicant.”

In view of the said requirement under Rule 5, the petitioner must get medical certificate in the prescribed form and produce before the authority concerned, then only the authority would consider the same and ultimately if the petitioner satisfies all other parameters certainly his case would be considered for grant of license.

7. This Court has considered the rival submissions of respective learned counsel and also perused the materials produced before this court.

8. Admittedly, the petitioner suffered with an accident and ultimately had injury in the right hand and even according to the petitioner the disability was fixed at 40% and when that being so, the requirement under Rule 5 of the Central Motor Vehicle Rules to produce a medical certificate/physical fitness in form No. I - A must be accompanied with every application seeking for licence. In the absence of the same, the third respondent cannot be expected to process the application of the petitioner for the grant of licence. In view of the said mandatory requirement under the said Rule, the submissions of the learned Additional Government Pleader will have substantive force for consideration.

9. The learned counsel for the petitioner would also agree with the said provision, whereby the medical certificate/physical fitness certificate in the prescribed form is a must or pre-



requisite for consideration of the petitioner's application for licence and the learned counsel for the petitioner would agree that the petitioner would get necessary medical certificate in the prescribed form within a shortest period and produce the same before the third respondent.

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10. In view of the said submissions made by the learned counsel appearing for parties, this Writ Petition is disposed of with the following directions:

(i) The petitioner shall be at liberty to get necessary medical certificate/ physical fitness in the prescribed form from the medical authority concerned as required under the Rules and produce the same within a period of two weeks from the date of receipt of a copy of this order.

(ii) On production of the said certificate, the third respondent shall consider the application for licence and if the petitioner is able to satisfy that he is otherwise eligible to claim Learner's Licence, there can be no further impediment for the grant of the same to the petitioner.

(iii) It is made clear that this order shall not be construed that this Court has accepted the claim of the petitioner. If he is entitled to get the licence, it is for the third respondent to decide the same in accordance with the Motor Vehicles Act and the Rules made thereunder. At any rate, the said endeavour has to be done by the 3rd respondent within a period of two weeks from the date of production of such medical document obtained from the competent authority.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Secretary,
Union of India,
Ministry of Transport,
New Delhi.

2. The Secretary,
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State of Tamil Nadu,
Fort St. George, Chennai - 9.



3.The Regional Transport Officer,
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+1 cc to M/s.T.Lajapathi Roy, Advocate in SR.No. 79960

+1 cc to M/S.K.Asok Kumar Ram , Central Government Counsel

in SR.No.79348

SJ

CSL/PV/23.12.2016: 5P/8C

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