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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6028/2016 & C.M.No.24793/2016**

MOHAN MONDAL

..... Petitioner

Through Mr.Satyam Thareja with Mr.Akash
Chandra Jauhari, Advocates.

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Through Mr.Anuj Aggarwal, ASC for
GNCTD.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **15.07.2016**

Present writ petition has been filed seeking a direction to the respondent to return the driving license of the petitioner.

It is the case of the petitioner that petitioner was unlawfully flagged down by a traffic policeman of Delhi Police near Aerocity for allegedly over speeding and his driving license was suspended.

After hearing both the counsel, this Court is of the view that the controversy in the present proceedings is covered by the judgment and order dated 2nd May, 2016 passed by a Coordinate Bench of this Court in *Ashish Gosain Vs. Department of Transport & Anr., W.P.(C) No.2076/2016*. The relevant portions of the said judgment is reproduced hereinbelow:-

“8.3.1. In cases of violations specified in the directions of the Supreme Court Committee on the Road Safety, the concerned police officer/enforcement officer shall seize the driving licence for initiating proceedings for suspension of licence under Section 19 of the Motor Vehicles Act read with Rule 21 of the Central Motor Vehicles Rules, 1989. The acknowledgement of the seizure of the driving licence shall notify the driving licence holder that the driving licence is liable to be suspended for a period of not

less than three months in terms of the directions of the Supreme Court Committee on Road Safety. The revised acknowledgment format is reproduced hereunder:-

“Acknowledgement for seizing driving licence for initiating suspension proceedings in compliance of the directions of Supreme Court Committee on Road Safety

Driving License No. _____ issued by
_____ valid upto _____ of Mr./Ms.
_____ S/o _____ R/o

has been taken in possession for committing the offence of _____ (specify the offence along with section) on _____ (date) at _____ (time) at _____ (location) and information is being sent to the Transport Department/Authority for initiating proceedings for suspension of driving licence under Section 19 of the Motor Vehicles Act, 1988 read with Rule 21 of the Central Motor Vehicles Rules, 1989, as per the directions of the Supreme Court Committee on Road Safety conveyed vide F. No.05/2014/CoRS-Part-III dated 18.08.2015. The driving license shall be liable for suspension for a period of not less than 03 months as per the directions of the Committee. The Committee vide its letter No.05/2014/CoRS-Part-III, dated 17.11.2015 had directed Delhi Traffic Police to take possession of the Driving License of the violator also. The orders of the Supreme Court Committee on Road Safety dated 18.08.2015 and 17.11.2015 are available online on the web site of Delhi Traffic Police at the link <https://delhitrafficpolice.nic.in/about-us/notifications>.

Name & Signature of the Enforcement Officer

Rank and No. _____
Circle _____

Date _____

Note:- This acknowledgement shall entitle the offender to drive for a period of not more than 90 days, subject to extension of validity by the Transport Authority pending adjudication under the Motor Vehicle Act.”

8.3.2. The licence seized by the Enforcement Officer shall be forwarded to the Motor Licensing Officer of the Transport Department who shall thereafter issue a show cause notice to the licence holder to show cause why his licence should not be suspended under Section 19(1) (d) and (f) of the Motor Vehicles Act read with Rule 21 of the Central Motor Vehicles Rules, 1989 in terms of the directions of the Supreme Court Committee on the

Road Safety. The revised draft notice format is reproduced hereunder:

*“Transport Department: Government of NCT of Delhi
Zone, Delhi - _____.*

Notice

*Whereas, a communication no. _____ Delhi dated _____
the _____ was received from _____.*

*Whereas, vide above said communication, it is informed that the
holder of driving license number _____ had committed the offence of
under section Vehicles Act, 1988 on _____ at
_____.*

*Whereas, the Challaning Officer has forwarded the license of
violator for suspension under Section-19 of the Motor Vehicles
Act, 1988 read with Rule 21 of Central Motor Vehicles Rules,
1989.*

*Whereas, as per the record the driving license No. _____ had
been issued to Sh. _____ S/o _____ R/o _____ from
this office as per provisions contained under Motor Vehicles Act,
1988 and rules made there under.*

*I, _____, Motor Licensing Officer, as per the powers
conferred to undersigned under Section-19(1)(d) & (f) of the
Motor Vehicles Act, 1988 read with Rule 21 of Central Motor
Vehicles Rules, 1989, hereby call upon your explanation as to
why your driving license should not be suspended under Section
19(1)(d) & (f) of the Motor Vehicles Act, 1988 and the relevant
Rules made there under for a period not less than three months
in compliance of the directions of Supreme Court Committee on
Road Safety (F.No05/2014/CoRS-Part-III dated 18.08.2015 and
F.No.05/2014/CoRS-Part-III dated 17.11.2015) available online
on the web site of Delhi Traffic Police at the link
<https://delhitrafficpolice.nic.in/about-us/notifications>. The reply
must reach the undersigned within 10 days of issue of this letter,
failing which ex parte decision will be taken. The personal
hearing on your reply shall be provided to you by the
undersigned on _____, at _____ (time) at _____ (place).*

(place).

*Motor Licensing Officer
_____ Zonal Office”*

*8.3.3. The Motor Licensing Officer shall afford a hearing to the
driving licence holder, who seeks the same in his reply. The
suspension order shall be passed after considering the reply and*

the submissions made by the licence holder at the time of oral hearing. The suspension order shall be sent to the driving licence holder by Regd. AD Post. The suspension order shall carry a note that the driving licence holder is entitled to an appeal under Section 19 (3) of the Motor Vehicles Act before the Appellate Authority within a period of one month from the date of the order.

8.3.4. The competent Transport Authority shall endeavour to complete the adjudicatory process preferably within a period of 90 days, failing which suitable period of extension shall be endorsed upon the acknowledgment/seizure memo by the said competent authority.

8.4. The procedure formulated by the Delhi Police and the Transport Department is fair and reasonable. Let the same be implemented forthwith.

8.5. In cases where the Suspension Order has already been passed without affording an opportunity of hearing under Section 19 (1) of the Motor Vehicles Act, and the license holder seeks a personal hearing; there is no impediment in the Motor Licensing Officer giving a fresh opportunity of hearing and passing a revised order.

8.6. There is no merit in the petitioner's plea that the suspension of a licence after the compounding of the offence would amount to double jeopardy. Section 19 can be invoked where the Licensing Authority is satisfied of the existence of conditions stipulated in Section 19(1)(a) to (h). The compounding of an offence under Section 200 of the Motor Vehicles Act does not, in any manner, affect the power of the licensing authority to suspend the licence under Section 19 of the Motor Vehicles Act. The suspension of a licence under Section 19 is not dependent upon the compounding of the offence by the accused. The suspension of the licence under Section 19(1) of the Motor Vehicles Act would not, therefore, amount to double jeopardy as contended by the petitioner.

8.7. This Court hopes that the Delhi Police as well as the Transport Department of Govt. of NCT of Delhi shall follow the due process of law in implementing the directions of the Supreme Court Committee on Road Safety.

8.8. *In the present case, respondent no.1 has not afforded any opportunity of hearing to the petitioner as mandated by Section 19(1) of the Motor Vehicles Act and therefore, it would be appropriate to remand this matter back to respondent no.1.*

9. Conclusion

For the reasons discussed hereinabove, this writ petition is allowed and the case is remanded back to respondent no.1 for affording an opportunity of hearing to the petitioner in terms of Section 19(1) of the Motor Vehicles Act, 1988. Vide reply dated 27th January, 2016, the petitioner had sought better particulars, namely, date, time and place of the alleged violation. Respondent no.1 shall furnish the better particulars to the petitioner within two weeks whereupon the petitioner shall submit his response to the show cause notice within a period of two weeks thereafter. Respondent No.1 shall afford an opportunity of hearing to the petitioner and shall thereafter pass a fresh order which shall be communicated to the petitioner. The impugned order dated 11th February, 2016 shall remain in abeyance and the petitioner would be entitled to drive till the fresh order is passed by respondent No.1. If the petitioner is not satisfied with the order that may be passed, the petitioner would be at liberty to avail the remedy of appeal before the appellate authority under Section 19 (3) of the Motor Vehicles Act.”

Since in the present petition the petitioner’s driving license has been seized, an acknowledgment in the prescribed format shall be issued to the petitioner enabling the petitioner to drive for a period not more than 90 days. The said acknowledgment shall be issued within a period of one week.

With the aforesaid direction, the present writ petition and the application stand disposed of.

Order *dasti*.

MANMOHAN, J

JULY 15, 2016/KA