

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 31.08.2018, 31.08.2018, 31.08.2018,
03.09.2018 & 14.09.2018

Orders Pronounced: 17..09..2018
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition Nos.11656, 21208, 22297, 22598 & 23295 of 2018
and

W.M.P.Nos.13645 of 2018 in W.P.No.11656 of 2018
W.M.P.Nos.24876 & 24877 of 2018 in W.P.No.21208 of 2018
W.M.P.Nos.26131 of 2018 in W.P.No.22297 of 2018
W.M.P.No.26448 of 2018 in W.P.No.22598 of 2018
&
W.M.P.No.27178 of 2018 in W.M.P.No.23295 of 2018

P.Sanjaigandhi

... Petitioner in W.P.No.11656 of 2018

-Versus-

1. The Inspector of Police,
Traffic Investigating Wing,
Hosur Police Station,
Krishnagiri District.

2. The Licensing Authority
-cum- Regional Transport Officer,
Hosur,
Krishnagiri District.

... Respondents in W.P.No.11656 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus calling for the records relating to the order of the 2nd respondent made Se.Mu. Au. No.16679/ E3/2018 dated 28.03.2018 suspending the driving licence of the petitioner for the period of 6 months from 21.03.2018 to 20.09.2018 and to quash the same and consequently direct the 2nd respondent herein to return the original driving licence (DL.No. TNI48 20000004841) to the petitioner forthwith.

D.Mylsamy

..... Petitioner in W.P.No.21208 of 2018

-Versus-

1.The Regional Transport Authority/
Licensing Authority,
Office of the Regional Transport Authority,
Tirupur (North),
Tirupur.

2.The Regional Transport Authority,
Mettupalayam.

..... Respondents in W.P.No.21208 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus calling for the records pertaining to the order dated 08.06.2018 passed by the 1st respondent in Che.Mu.Order No.09252/A2/2018 quash the same and consequently direct the respondents to forthwith the petitioner original licence bearing No.TN 40 20040001871 without any endorsement.

K.Shanmugasundaram

..... Petitioner in W.P.No.22297 of 2018

-Versus-

1.The Inspector of Police,
Traffic Investigating Wing,
Mettupalayam Police Station,
Coimbatore District.

2.The Licensing Authority
-cum-Regional Transport Officer,
Mettupalayam,
Coimbatore District.

..... Respondents in W.P.No.22297 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus Calling for the records of the 2nd respondent relating to the order in R.No.28769/ A3/2018 dated 31.07.2018 suspending the driving licence of the petitioner for a period of 3 months from 13.07.2018 to 12.10.2018 and to quash the same consequently direct the 2nd respondent to return the original driving licence (DL No.TN-40-19830000756) to the petitioner forthwith.

Senthilmurugan

..... Petitioner in W.P.No.22598 of 2018

-Versus-

1.The Sub Inspector of Police,
Palladam Police Station,
Palladam - Taluk,
Tirupur District.

2.The REgional Transport Officer,
(Licensing Authority),
Regional Transport Office,
Tirupur (South),
Tirupur 638 601

3.The General Manager,
Tamil Nadu State Transport Corporation Limited,
Regional Office,
Coimbatore,
37, Mettupalayam Road,
Coimbatore 641043.

4.The Deputy Transport Commissioner,
Dr.Balasundaram Road,
Coimbatore 641018.

..... Respondents in W.P.No.22598 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus calling for the records of the 2nd respondent issued under Proceedings No.28516/E3-17 dated 21.08.2018 and quash the same consequently directing the 2nd respondent to return the original Driving License No.TN41X20040001492 of the petitioner immediately without any endorsement.

C.Karunanithi

..... Petitioner in W.P.No.23295 of 2018

-Verus-

The Regional Transport Officer &
Licensing Authority,
Regional Transport Office,
Chidambaram,
Cuddalore District.

..... Respondent in W.P.No.23295 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus calling for the records relating to the proceedings in Se.Mu.Aa.No. 28285/ E4/ 2017 on the file of the respondent dated 26.07.2018 and quash the same as illegal and consequently directing the respondent to return the Driving License to the petitioner forthwith.

For Petitioner(s) : Mr.K.Hariharan for petitioner
(s) in W.P.Nos.11656 of 2018
& 22297 of 2018

Mr.R.Krishnaswamy for
petitioner in W.P.No.21208 of
2018

Mr.A.Rajendiran for
petitioner in w.P.No.22598 of
2018

For Petitioner(s) : Mr.K.Hariharan for petitioner
(s) in W.P.Nos.11656 of 2018
& 22297 of 2018

Mr.D.Veerasekaran for
petitioner in W.P.No.23295 of
2018

For Respondents : Mr.A.N.Thambidurai, Special
Government Pleader for R1 and
R2 in W.P.Nos.11656, 21208,
22297 of 2018, R1, R2 and R4
in W.P.No.22598 of 2018 and
Respondent in W.P.No.23295 of
2018

Mr.P.Kannan Kumar for R3 in
W.P.No.22598 of 2018

COMMON ORDER

These writ petitions challenge the identical orders passed by the Licensing Authority/Regional Transport Officer concerned suspending the driving license of the petitioners herein under Section 19(1) of the Motor Vehicle Act [in short, 'the Act'].

2. Since the issues involved in all these writ petitions were identical, they were heard together and are being disposed of by this common order.

3. The petitioners in these writ petitions are working as drivers either Tamil Nadu State Express Transport Corporation (SETC) and Tamil Nadu State Transport Corporation (TNSTC). The buses driven by them involved in accidents and upon complaints criminal cases have been registered against them by the police concerned for offences under Section 279 & 304-A of IPC. Since the one of the offences alleged against petitioners is cognizable one, the licensing authority concerned had issued show cause notices to the respective petitioners invoking the provision in Section 19(1)(c) of the Act. Thereafter, appropriate enquiries were conducted and final orders have also been passed by the licensing authority concerned thereby suspending the licenses of the respective petitioners for a specified period. It is those orders which are now under challenge in the instant writ petitions.

4. The learned counsel for the respective petitioner submitted that the impugned order suspending the licenses of the respective petitioners were passed by the licensing authority concerned in a cryptic manner, without assigning any reasons and in some cases printed formate have been used for filling up

the name and the period of suspension which is totally in violation of the provisions contained in Section 19(1) of the Act.

5. The learned counsel further submitted that the objections submitted by the petitioners were not considered and no proper enquiries have been conducted by the licensing authority concerned. When an objection has been raised for show cause notice the licensing authority is expected to consider the same and pass a reasoned final order and in the instant case the licensing authority concerned have not only failed to consider the objections raised by the petitioner, but, they passed the impugned order mechanically in the ready-made forms as well.

6. Per contra, the learned Special Government Pleader appearing for the police and the licensing authorities contended that the petitioners have used their vehicles in the commission of cognizable offences and criminal cases have been registered against them. Therefore, the licensing authority concerned invoking the provision in Section 19(1)(c) of the Act had issued show causes notices to the respective petitioners and upon considering the objections, final orders have been passed suspending their licenses for a limited period. It is the admitted case of the petitioners that the criminal cases have been registered against them which included a cognizable offence and as per Section 19(1) of the Act, the licensing authorities concerned were satisfied that the petitioners used their respective vehicles in the commission of cognizable offence and, therefore, passed the impugned orders suspending the licenses for a specified period. In the said circumstances, according to the learned Special Government Pleader, no other reason is required to be given in the order.

7. The learned Special Government Pleader further submitted that as against the order suspending the license, an appeal is provided under Section 19(3) of the Motor Vehicles Act and without availing such alternative remedy, petitioners cannot maintain the writ petitions before this court.

8. I have considered the rival submissions carefully.

9. Before considering the rival submissions, this court is of the view, that it would be useful to refer to the relevant provision of Section 19(1) of the Act which read thus:

"19. Power of licensing authority to disqualify from holding a driving licence or revoke such licence.— (1) If a licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard, that he —

... ..
... ..
(c) is using or has used a motor vehicle
in the commission of a cognizable offence; or

... ..
... ..

(h) being a person under the age of
eighteen years who has been granted a
learner's licence or a driving licence with
the consent in writing of the person having
the care of the holder of the licence and has
ceased to be in such care, it may, 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) revoke any such licence."

[Italics supplied]

10. A cursory reading of the above provisions would make it clear that it is mandatory on the part of the licensing authority to issue show cause notice to the holder of a driving license and the licensee should also be given an opportunity of being heard and after due enquiry, if the licensing authority is satisfied himself that the driving license is liable to be suspended on account of the contingency specified in the show cause notice, after recording reasons for the same, he may pass appropriate orders as enshrined in Section 19(1)(h)(i) or (ii) of the Act. But, a perusal of the impugned order it could be seen that the licensing authority concerned in the instant cases did not record any reasons whatsoever for suspending the licenses and the impugned orders have been passed in a total non application of mind. In some of the cases, they impugned orders have been passed in the printed forms without assigning any valid reasons for arriving at the satisfaction. Thus, the licensing authority in the instant cases have flouted the mandatory procedures while invoking their power under Section 19 (1) of the Act and on this ground alone they are liable to be set aside.

11. So far as the contention of the learned Special Government Pleader regarding the availability of alternative remedy of appeal is concerned, as the impugned orders have been passed in total violation of the mandatory requirements and also in total non application of mind, this court is not inclined to relegate the petitioners to approach the appellate forum and instead, this court is inclined to set aside the impugned order

and remit back the matters to the licensing authority concerned for reconsideration of the matters after issuing a fresh show cause notice afresh to the respective petitioners.

12. In the result, the writ petitions are allowed and the impugned orders passed by the licensing authority are set aside and the matters are remitted back for fresh consideration. The Licensing Authority concerned are directed to issue fresh show cause notice to the respective petitioners, conduct enquiry and pass appropriate orders on merits in accordance with law by giving reasons for the same. During enquiry, fair opportunity of hearing shall be given to the respective petitioners. The above said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected MPs are closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

kmk

To

1. The Inspector of Police,
Traffic Investigating Wing,
Hosur Police Station,
Krishnagiri District.
2. The Licensing Authority
-cum- Regional Transport Officer,
Hosur,
Krishnagiri District.

+2 Ccs to Mr.K. Hariharan, Advocate sr 64464,64465.
+2 Ccs tp Mr.V. Ajoy Khose, Advocate sr 60199,64324.
+1 CC to Mr.D. Veerasekaran, Advocate sr 64030.
+1 CC to Govt. Pleader sr 64630
+1cc to Mr.A.Rajendiran, Advocate sr.no.64043

W.P.No.11656,21208,22297,22598 & 23295 of 2018.

SP(28/09/2018)