



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2018

CORAM:

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.21951 of 2018

J.Muthupandi

.. Petitioner

Vs.

The Licensing Authority /,
Regional Transport Officer,
Regional Transport Office,
Madurai South,
Madurai

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent, vide proceedings Se.Mu.Aa.No.51438/C4/2018, dated 17.09.2018 and quash the same and consequently direct the respondent to return the petitioner's original driving license bearing D.L.No.TN-58-19960001867 forthwith.

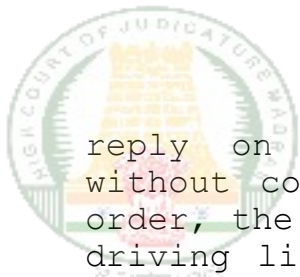
For Petitioner : Mr.V.Muthukamatchi

For Respondent : Mr.M.Rajarajan,
Government Advocate

ORDER

This writ petition has been filed by the petitioner challenging the order passed by the respondent, dated 17.09.2018, whereby and whereunder the respondent suspended the driving licence of the petitioner for a period of three months ie., from 07.09.2018 to 06.12.2018 and for a direction to the respondent to return the driving licence of the petitioner forthwith.

2.The petitioner is working as a driver in the Tamil Nadu State Transport Corporation (Madurai Division) Limited, Madurai. On 04.09.2018, while he was driving a bus bearing Registration No.TN-58-N-1882, there was an accident in which, a person, who attempted to cross the road, sustained injury. In this regard, a case was registered against the petitioner in Cr.No.202 of 2018 under Sections 279 and 337 I.P.C. After that, the respondent has issued a show cause notice, for which the petitioner submitted his



reply on 11.09.2018 denying the allegations. On 17.09.2018, without conducting any enquiry and without passing any detailed order, the respondent has passed the impugned order suspending the driving licence of the petitioner from 07.09.2018 to 06.12.2019. Challenging the said order, the petitioner is before this Court.

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3. The learned counsel appearing for the petitioner would submit that the accident had occurred only due to the negligence of the person, who crossed the road and the original driving licence of the petitioner was suspended by the respondent only based on the registration of a criminal complaint. By relying on a decision of a Division Bench of this Court reported in **2010 Writ L.R.100 (P.Sethuram Vs. the Licensing Authority, the Regional Transport Officer, Dindigul and others)**, the learned counsel for the petitioner submitted that the respondent ought not to have suspended the driving licence of the petitioner based on the registration of a criminal complaint. He would further submit that though the respondent issued show cause notice and the petitioner appeared before him and explained the occurrence, the respondent, without recording any findings, has simply suspended the licence of the petitioner. Thus, he prayed to set aside the impugned order, dated 17.09.2018 and to return the original driving licence.

4. The learned Government Advocate appearing for the respondent submitted that the suspension of the licence of the petitioner has been made by the respondent after considering the reply given by the petitioner and therefore, the same need not be interfered with.

5. Heard the learned counsel appearing for both sides and perused the records carefully.

6. Admittedly, in this case, the original driving licence of the petitioner was suspended by the respondent only based on the registration of a criminal case. But, the impugned order does not contain any reason for rejection of the petitioner's reply. The impugned order is only a stereotype order. When a question arises for consideration as to whether mere registration of a criminal complaint and the involvement of a driver in a road traffic accident is enough to invoke the power to suspend or revoke a driving licence under the Act, a Division Bench of this Court has in the case in **P.Sethuram Vs. The Licensing Authority, Regional Transport Officer, Dindigul**, reported in **2010 Writ L.R. 100** has held in paragraph Nos.8 to 12 as follows:

"8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a licence, if any of the contingencies prescribed in Clauses (a) to (h) of Sub Section (1) of Section 19 arises. More over, the power



under Section 19(1) can be involved only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.

9. But, in the case on hand, the licence of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19(1) of the Act, after getting a report from the Police. Therefore, the impounding of the licence has actually preceded the issue of show cause notice.

10. Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract clause (1) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall.

11. The respondent has, in the impugned order, pre-concluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor Vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind.

12. In view of the above, the Writ Appeal is allowed, the order of the learned Judge is set aside and the writ petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not preclude the respondent from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are



violated.”

7. The above decision is squarely applicable to the case on hand as in this case also the order of suspension has been passed on the pre-conclusion of the issue that the petitioner is guilty of rash and negligent driving and without giving any reason for such suspension.

8. In view of the above, the impugned order passed by the respondent is set aside and the respondent is directed to delete the endorsement made on the driving licence of the petitioner about the suspension and to return the original driving licence to the petitioner on receipt of production of a copy of this order. However, it shall not preclude the respondent from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f), are violated.

9. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS-I)

To

1.The Licensing Authority /
Regional Transport Officer,
Regional Transport Office,
Madurai South,
Madurai

+1 CC To MR.V.MUTHUKAMATCHI, Advocate SR. NO. 92288

Order made in
W.P(MD)No.21951 of 2018
26.10.2018

GCG

TR/RSK/SAR-I (29.10.2018) 4P 3C