



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD) No.16094 of 2018

and W.M.P. (MD) No.14337 of 2018

WEB COPY

P.Mahalingam

... Petitioner

Vs.

The Licensing Officer cum
the Regional Transport Officer,
The Regional Transport Office,
Kumbakonam, Thanjavur District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus after calling for the records from the respondent relating to his impugned order dated 10.07.2018 passed in Se.Mu.Aa.No.24648/A8/2018, quash the same and consequently direct the respondent to return the driving license of the petitioner without any remarks, award cost.

For Petitioner : Mr.S.Arunachalam
For Respondent : Mrs.J.Padmavathi Devi
Special Government Pleader

O R D E R

The petitioner challenges the order of punishment imposed under Section 19(1) of Motor Vehicles Act. The petitioner is a Driver employed in Tamilnadu State Transport Corporation, Kumbakonam Limited. He was issued with driving license on 18.08.1992 and appointed as driver on 24.02.2013 and he was in service till now. On 02.07.2018, the bus belonging to the Tamilnadu State Transport Corporation driven by him involved in an accident, in which, a Two Wheeler was hit on the front right side of the bus and rider of the two wheeler sustained grievous injuries and later succumbed to the same.

2. A First Information Report was registered in Crime No.238 of 2018 for the offences under Sections 279, 337 and 304(A) IPC. The Inspector of Police sent a communication recommending cancellation of license. Based on information given by the Inspector of Police, a Show Cause Notice was issued by the respondent on 10.07.2018 as per Section 19(1) of Motor Vehicles



3. Section 19(1) of the Motor Vehicles Act, 1988, contemplates that if a licensing authority is satisfied, after giving the holder of a driving license an opportunity of being heard, the licensing authority has power to disqualify him from holding driving license or revoke such license.

4. In the instant case, as per Section 19(1)(c) of the Motor Vehicles Act, the petitioner has used the motor vehicle in the commission of cognizable offence.

5. According to the petitioner, the respondent issued Show Cause Notice on 10.07.2018 calling upon the petitioner to submit his explanation as to why his license should not be suspended under Section 19 of the Motor Vehicles Act. But before submitting explanation, the respondent passed the impugned order on the very same day in exercise of power under Section 19(1)(C) of the Motor Vehicles Act, 1988, suspending the driving license of the petitioner for a period of 6 months i.e. from 02.07.2018 to 01.01.2019. According to the learned counsel, without giving an opportunity of hearing, the impugned order was passed, which is in violation of principles of natural justice and hence, he prays for quashing the impugned order.

6. The learned Special Government Pleader submits that as per Section 19(3) of the Motor Vehicles Act, appeal remedy is available to the petitioner and without exhausting the appeal remedy, the petitioner has hastened to approach this Court. Therefore, the present Writ Petition is not maintainable. The learned Special Government Pleader would rely on the judgment of a Division Bench of this Court in W.A.(MD) No.244 of 2015 dated 06.04.2015, wherein the power of the Regional Transport Officer to suspend the license has been upheld.

7. Heard both sides and perused the materials on record.

8. Upon hearing the submissions made on either side and on perusing the materials available before this Court, it is seen that a Show Cause Notice was issued on 10.07.2018, but, the postal receipt shows that it was posted only on 12.07.2018. The Show Cause Notice provides 7 days time for offering explanation. But curiously, in proceedings No.27648/A8/2018, the respondent has imposed the punishment of suspension of license for a period from 02.07.2018 to 01.01.2019 and also specified appeal remedy is available under Section 19(3) of the Motor Vehicles Act, 1988, within 30 days from the date of receipt of that order.

9. Admittedly, 7 days time was granted to the petitioner to show cause as to why action should not be taken. Section 19(1)(c) of the Motor Vehicles Act clearly specifies that an opportunity of personal hearing shall be given before passing the



order. A reading of the impugned order shows that an opportunity was given and that the petitioner appeared and submitted his explanation. But such statement is highly improbable, since the Show cause Notice itself was posted on 12.07.2018. In that event, there is no possibility for the petitioner to appear before the respondent on 09.07.2018 as stated in the impugned order. On seeing the original impugned order, it is noted that a printed format and relevant information has been filled in that, which reveals mechanical approach without application of mind.

10. From the above it can be clearly inferred that opportunity of hearing was given to the petitioner and the order came to be passed, mechanically, without application of mind. Hence, this Court is of the view that the impugned order passed in proceedings No.27648/A8/ 2008 dated 10.07.2018 is also in violation of Section 19(1) of the Motor Vehicles Act as well as the principles of natural justice and it is not sustainable in the eyes of law. Accordingly, the impugned order is set aside and the matter is remanded back to the respondent for passing fresh orders in accordance with law.

11. It is made clear that the respondent has ample powers to suspend the license, provided, while exercising its power under Section 19(1) of the Motor Vehicles Act, he shall give an opportunity of personal hearing. The respondent is accordingly directed to provide an opportunity of hearing to the petitioner and thereafter, pass orders on merits and in accordance with law.

12. In the result, the writ petition is allowed. No costs. Consequently, connected W.M.P.(MD) No. 14337 of 2018 is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Licensing Officer cum
the Regional Transport Officer,
The Regional Transport Office,
Kumbakonam, Thanjavur District.

+1cc to Mr.S.Arunachalam, Advocate SR.No.74784

+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.74833

Cm

MK/SKN RSK/SAR 1/06.08.2018/3P/4C