



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 10.09.2018

PRONOUNCED ON : 24.09.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.16854 of 2018

and

M.P. (MD) .Nos.14887 and 14888 of 2018

A.Karunanithi

.. Petitioner

Vs.

1.The Licensing Authority /,
Regional Transport Officer,
Trichy East,
Trichy.

2.The Inspector of Police,
Traffic Investigation Wing,
North Police Station,
Trichy District.

.. Respondents

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 relating to the impugned proceedings in Se.Mu.Order No.19399/E2/2018, dated 12.07.2018, quash the same and consequently direct the respondents to return the petitioner's original driving license bearing DL.No.TN-46-19930001817 to the petitioner within a stipulated time.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.D.Muruganandham,
Addl. Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the order passed by the first respondent, dated 12.07.2018, whereby and whereunder the first respondent suspended the driving licence of the petitioner from 11.07.2018 to 10.01.2019 and for a direction to the respondents to return the driving licence of the petitioner.



2.The petitioner is working as a driver in the Tamil Nadu State Transport Corporation (Kumbakonam) Limited. On 02.07.2018, while he was driving a bus bearing Registration No.TN-45-N-2488, there was an accident in which, a person, who attempted to catch another bus by crossing the road, died. In this regard, a case was registered against the petitioner in Cr.No.124 of 2018 under Sections 279 and 337 I.P.C. On 04.07.2018, the original licence of the petitioner was seized by the first respondent. On 11.07.2018, the petitioner was served with the show cause notice dated 04.07.2018. On 11.07.2018 itself, the petitioner appeared before the first respondent. On 12.07.2018, without conducting any enquiry and without examining any eyewitnesses, the first respondent has passed the impugned order suspending the driving licence of the petitioner from 11.07.2018 to 10.01.2019. Challenging the said order, the petitioner is before this Court.

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 seized by the Police and suspended by the first 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 first respondent issued show cause notice and the petitioner appeared before him and explained the occurrence, the first respondent, without conducting any further enquiry and without recording any findings, has simply suspended the licence of the petitioner. Thus, he prayed to set aside the impugned order, dated 12.07.2018 and to return the original driving licence.

4. The learned Additional Government Pleader appearing for the respondents submitted that the suspension of the licence of the petitioner has been made by the first respondent after conducting enquiry 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 seized by the respondents based on the registration of the criminal case and later on, it was suspended by the first respondent after issuing show cause notice and enquiring the petitioner. But, the impugned order does not contain any reason for suspension of the licence of the petitioner



for a period of six months. 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 driving 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.

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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 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 first respondent is set aside and the first 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. However, it shall not preclude the respondents 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 are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS-SI)



To

1. The Licensing Authority /,
Regional Transport Officer,
Trichy East,
Trichy.

2. The Inspector of Police,
Traffic Investigation Wing,
North Police Station,
Trichy District.

+1 CC To MR.A.RAHUL, Advocate SR. NO. 86177

Order made in
W.P (MD) No. 16854 of 2018
24.09.2018

GCG

TR/RP/SAR-I (24.09.2018) 5P 4C