



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.04.2018
CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P. (MD) No. 19274 of 2013
and
M.P. (MD) No. 1 of 2013

M. Amulraj : Petitioner

Vs.

1. The Licensing Authority,
(The Regional Transport Officer),
The Regional Transport Office,
Srirangam, Trichy.

2. The Management of
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region,
Rep. by its General Manager,
Trichy.

: 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 from the first respondent relating to his impugned order dated 21.10.2013 passed in Se.Mu.No.40775/A3/2013, quash the same and consequently, direct the respondent to return the driving licence of the petitioner to him and award cost.

For Petitioner : Mr. T. Sathyanathan,
For Mr. S. Deenadhayan

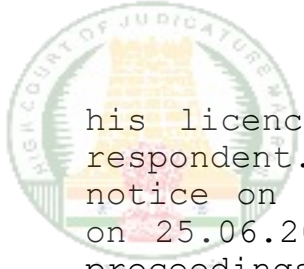
For Respondent No. 1 : Mr. B. Bhagavathi,
Government Advocate

For Respondent No. 2 : Mr. D. Sivaraman

ORDER

The petitioner, aggrieved by an order passed by the first respondent/Regional Transport Officer, has preferred the present Writ Petition.

2. According to the petitioner, there was an accident on 27.05.2013, while he was driving the bus belonging to the second respondent Transport Corporation. Therefore, the Police have seized



his licence on 27.05.2013 and handed over the same to the first respondent. Thereafter, the first respondent issued a show cause notice on 06.06.2013, to which, the petitioner submitted his reply on 25.06.2013. Pursuant to the same, the first respondent, in his proceedings in Se.Mu.No.40775/A3/2013, dated 21.10.2013, based on the report of the Motor Vehicle Inspector, disqualified the petitioner from holding the licence with effect from 21.10.2013. Hence, the Writ Petition.

3. The learned counsel for the petitioner would contend that the order passed by the first respondent is without jurisdiction and in violation of the principles of natural justice. According to him, the criminal case is still in the preliminary stage and that he was not afforded with an opportunity of personal hearing. Further, his licence was impounded by the first respondent even before issuing the show cause notice. Therefore, the impugned order is liable to be set aside.

4. The learned Government Advocate appearing for the first respondent would submit that the order passed under Section 19 of the Motor Vehicles Act is very much legal and sustainable. After passing of the impugned order, the driving licence of the petitioner was renewed with effect from 23.12.2014 to 27.12.2017 and thereafter, from 11.12.2017 to 21.12.2020. Therefore, nothing survives in the Writ Petition.

5. The issue to be resolved is whether disqualifying the petitioner from holding the licence with effect from 21.10.2013 is valid or not.

6. In similar circumstances, a Division Bench of this Court in P.Sethuram v. The Licensing Authority, The Regional Transport Officer, Dindigul reported in 2010 Writ L.R. 100, at Paragraph Nos.9 and 10, held as follows:

"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 (a) 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."

7. A perusal of the above said judgment would reveal that even before issuing the show cause notice, impounding the licence would amount to pre-determination of the issue. Until the holder of the licence is found guilty, action under Section 19(1)(c) of the Motor Vehicles Act shall not be taken.

8. In the instant case, action is taken under Section 19(1)(c) of the Motor Vehicles Act r/w Rule 21(12) of the Motor Vehicle Rules. Rule 21(12) corresponds to Section 19(1)(f) of the Motor Vehicles Act. The authority has passed the order without considering the legal position. Therefore, in view of the judgment of the Hon'ble Division Bench referred to above, the authority does not have any jurisdiction to impound the licence, that too, even before issuing the show cause notice under Section 19(1) of the Motor Vehicles Act. Further, even before the petitioner is found guilty, such an action is not sustainable.

9. The submission made by the learned Government Advocate would show that the licence has been renewed with effect from 23.12.2014 to 27.12.2017 and thereafter, from 11.12.2017 to 21.12.2020. Therefore, it is not clear as to whether the disqualification of the petitioner from holding the driving licence is set aside or not.

10. However, in view of the judgments of the Hon'ble Division Bench and the other coordinate Benches, I am inclined to set aside the impugned order dated 21.10.2013, as it is passed without jurisdiction and in violation of principles of natural justice.

11. In the result, the impugned order dated 21.10.2013 of the first respondent is set aside and the Writ Petition is allowed. The first respondent is directed to return the driving licence forthwith to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To
The Licensing Authority,
(The Regional Transport Officer),
The Regional Transport Office, Srirangam, Trichy
+1cc to Mr.S.Deenadhayalan, Advocate, SR.No.62039
+1cc to The Special Government Pleader, SR.No.61888
+1cc to Mr.D.Sivaraman, Advocate, SR.No.61686

SML

RL/5C/3P/RSK/SAR3/3/5/2018

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Order made in
W.P. (MD) No.19274 of 2013
17.04.2018