

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.11.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.30619 of 2019

J.Sivakumar

... Petitioner

Versus

1. The License Authority,
Cum Assistant Regional Transport Officer,
Transport Department,
Dharapuram - 638 656
Tiruppur District.
 2. The License Authority,
Cum Assistant Regional Transport Officer,
Transport Corporation,
Pillaiyarpatti - 613 403.
Thanjavur District.
 3. The Inspector of Police,
Dharapuram Police Station,
Tiruppur District,
in Crime No.7 of 2019
- Respondents

PRAYER:-Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 1st respondent to return back the petitioner's driving licence DL.No.TN 48 200 20000 3746 (i) to the petitioner immediately forthwith which was seized on 01.06.2019 by considering the representation made on 16.08.2019 to 1st respondent by the petitioner.

For Petitioner .. Mr.P.Kalimuthu
For R1 to R3 .. Mr.N.Inbanathan,
Additional Government Pleader

O R D E R

This Writ Petition is filed, to direct the 1st respondent to return back the petitioner's driving licence DL.No.TN 48 200 20000 3746 (i) to the petitioner immediately forthwith which was seized on 01.06.2019 by considering the representation made on 16.08.2019 to 1st respondent by the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3.

3. The petitioner herein is a Driver of TATA VAN vehicle bearing Registration No.TN 56 AC 3438 which involved in a road accident causing death to a two wheeler on 06.01.2019. His driving licence was seized by the third respondent-police and forwarded to the first respondent for appropriate action. The first respondent has caused show cause notice to the petitioner dated 01.03.2019 and thereafter the impugned order dated 07.06.2019 passed cancelling the driving licence of the petitioner permanently invoking the Section 19 of the Motor Vehicle's Act.

4. This Court has time and action pointing that the permanent cancellation of driving licence cannot be done by exercising power under Section 19 of the Motor Vehicle's Act and if the action to be taken under Section 21 of the Act, the criminal case should have ended in conviction. For better understanding, Sections 19 and 21 are extracted below:-

"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 ..

(a) is a habitual criminal or a habitual drunkard; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985; or

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

.....(emphasis supplied)

"21. Suspension of driving licence in certain cases:- (1) Where, in relation to a person who had been previously convicted of an offence punishable under Section 184, a case is registered by a police officer on the allegation that such person has, by such dangerous driving as is referred to in the said Section 184, of any class or description of motor vehicle caused the death of, or grievous hurt to, one or more persons, the driving licence held by such person shall in relation to such class or description of motor vehicle become suspended-

(a) for a period of six months from the date on which the case is registered, or

(b) if such person is discharged or

acquitted before the expiry of the period aforesaid, until such discharge or acquittal, as the case may be.

.....(emphasis supplied)

5. In this case, the first respondent has permanently disqualified the petitioner herein to hold the driving licence by invoking Section 19 of Motor Vehicle's Act without proper enquiry. The said order is contrary to law and illegal. Hence, the order dated 07.06.2019 is quashed. If the respondent is inclined to take any action against the petitioner can be done as per law after affording opportunity to the petitioner.

6. With these observations, this Writ Petition is disposed of. The first respondent is directed to return the driving licence to the petitioner getting an undertaking from the petitioner that he will subject himself to the propose action taken against him in accordance with law. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

nvi

To

1. The License Authority,
Cum Assistant Regional Transport Officer,
Transport Department,
Dharapuram - 638 656
Tiruppur District.
2. The License Authority,
Cum Assistant Regional Transport Officer,
Transport Corporation,
Pillaiyarpatti - 613 403.
Thanjavur District.
3. The Inspector of Police,
Dharapuram Police Station,
Tiruppur District.

+lcc to Mr.P.Kalimuthu, Advocate, S.R.No. 98349
+lcc to the Government Pleader, S.R.No. 99438

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SAI (CO)
GN(03/12/2019)