



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) No. 7914 of 2019

and

W.M.P. (MD) No. 6258 of 2019

A. Krishnamoorthy

... Petitioner

Vs.,

The Regional Transport Officer,  
The Regional Transport Office,  
Karur.

... Respondent

**PRAYER:** Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records from the respondent relating to the impugned order dated 25.03.2019 passed in Se.Mu.Aa.No.3162/A1/19 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 | : Mr.A.Thiyagarajan,<br>Government Advocate |

### **O R D E R**

The instant writ petition has been filed challenging the order dated 25.03.2019 passed by the respondent, suspending the driving license of the petitioner for a period of six months.

2. According to the petitioner, he is a driver employed with the Tamil Nadu State Transport Corporation (Kovai) Limited on 31.08.2008. According to him, the bus bearing Reg No.TN 38 N 2865 belonging to Tamil Nadu State Transport Corporation (Kovai) Limited, in which he was driving met with an accident on 22.02.2019 and a F.I.R., was registered against him. Thereafter, the respondent impounded the license and initiated action against the petitioner under Section 19(1)(c) of the Motor Vehicles Act.

3. By the impugned order dated 25.03.2019, the respondent suspended the petitioner's driving license for a period of six months from 22.02.2019 to 21.08.2019. It is the case of the petitioner that the impugned order is a non-speaking order and without considering the objections raised by the petitioner, the impugned order has been passed. In such circumstances, the impugned order has been filed.

4. Heard Mr.S.Arunachalam, learned counsel for the petitioner and Mr.A.Thiyagarajan, learned Government Advocate appearing for the respondent.



5. Learned counsel for the petitioner drew the attention of this Court to the impugned order dated 25.03.2019 and submitted that it is a stereo typed order and is a non-speaking order and the respondent has not considered the objections raised by the petitioner in his reply dated 15.03.2019. Therefore, according to him, the impugned order has to be quashed.

6. Per contra, the learned Government Advocate appearing for the respondent would submit that the impugned order is a speaking order. Therefore, the only remedy available to the petitioner is to file a statutory appeal available to the petitioner under the Motor Vehicles Act, 1988. Instead of filing the statutory appeal, the petitioner has filed this writ petition, which is not maintainable.

**Discussion:**

7. Section 19 (1) of the Motor Vehicles Act, 1988 reads as follows:-

**"19. Power of licensing authority to disqualify from holding a driving license or revoke such license -**

(1) If a licensing authority is satisfied, after giving the holder of a driving license 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 (61 of 1985); or
- (c) is using or has used a motor vehicle in the commission of a cognizable offence; or
- (d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public; or
- (e) has obtained any driving any driving license or a license to drive a particular class or description of motor vehicle by fraud or misrepresentation; or
- (f) has committed any such act which his likely to cause nuisance or danger to the public, as may be prescribed by the Central Government, having regard to the objects of this Act; or
- (g) has failed to submit to, or has not passed, the tests referred to in the provision to sub-section (3) of section 22; or
- (h) being a person under the age of eighteen years who has been granted a learner's license or a driving license with the consent in writing of the person having the care of the holder of the license and has ceased to be in such care,



it may, reasons to be recorded in writing, make an order-

- (i) disqualifying that person for a specified period for holding or obtaining any driving license to drive all or any classes or descriptions of vehicles specified in the license; or
- (ii) revoke any such license."

WEB COPY

8. As seen from the impugned order, the petitioner is found to be guilty under Section 19(1)(c) of the Act and has been charged under the same. But Section 19(1) of the Act makes it clear that the holder of the driving license should be given an opportunity of being heard in the enquiry proceedings. In the instant case, as seen from the impugned order, no such opportunity of personal hearing was granted to the petitioner. Even though objections were raised by the petitioner vide his reply dated 15.03.2019 to the show cause notice dated 11.03.2019, the said objections were not considered under the impugned order, even though the receipt of the same has been duly acknowledged in the impugned order.

9. Therefore, it is evident that the respondent has not followed the procedure contemplated under Section 19(1)(c) of the Act by affording adequate opportunity to the petitioner before suspending his driving license, for a period of six months and therefore, the respondent has acted in violation of principles of natural justice. For the forgoing reasons, the impugned order has to be quashed.

10. In the result, the impugned order dated 25.03.2019 passed by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration and the respondent after giving adequate opportunity to the petitioner including granting him the right of personal hearing, shall pass final orders within a period of eight (08) weeks from the date of receipt of a copy of this order. In the meanwhile, since the impugned order is quashed, the respondent is directed to return the original driving license to the petitioner on receipt of a copy of this order. With the aforesaid directions, the **Writ Petition is disposed of.** No costs. Consequently, connected W.M.P.(MD) No.6258 of 2019 is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS IV)



To

The Regional Transport Officer,  
The Regional Transport Office,  
Karur.

WEB COPY

+1 CC to M/s.SPL GP ( SR-58890[F] dated 04/04/2019 )

+1 CC to M/s.S.ARUNACHALAM, Advocate ( SR-58961[F] dated  
04/04/2019 )

Order made in

**W.P. (MD) No. 7914 of 2019**

**DS(SP)/ /SAR- (30.04.2019) 4P 4C**