



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2019

CORAM:

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P (MD) NOs.20472 and 19322 OF 2019

and

W.M.P (MD) Nos.15741, 15742, 17005, 17094 and 17095 of 2019

R.Vijayakumar,
Son of T.A.Rajamanickam,
Proprietor,
Sudha Driving School,
No.1, Ashok Nagar,
Opposite to RTO Office,
Trichy Main Road,
Pillaiyarpatti Post,
Thanjavur -613 403.

:Petitioner in both W.Ps'

.vs.

1.The Transport Commissioner,
Transport Department,
Ezhilagam,
Chepauk,
Chennai.

2.The Regional Transport Officer,
Regional Transport Office,
Thanjavur District.

: Respondents in both W.Ps'

PRAYER in W.P(MD)No.20472 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in Proc. No.26300/A2/2019, dated 12.9.2019 sent on 14.9.2019 and quash the same and consequently to direct the second respondent to renew the Petitioner's Driving School Licence by application dated 17.6.2019.

PRAYER in W.P(MD)No.19322 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the show-cause notice issued by the second respondent in Na.Ka.10815/E4/2019, dated 8.4.2019 and quash the same and consequently to direct the second respondent to renew the Petitioner's Driving School Licence by application dated 17.6.2019 which is going to be expired on 14.09.2019.



For Petitioner
in both W.Ps'

:Mr.C.Vakeeswaran

For Respondents
in both W.Ps'

:Mrs.J.Padmavathi Devi
Special Govt.Pleader

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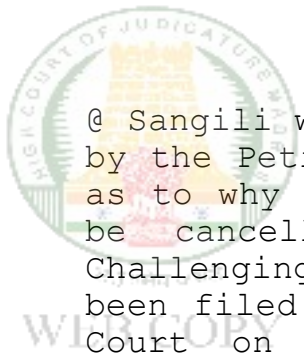
COMMON ORDER

W.P(MD)No.20472 of 2019 has been filed seeking to quash the impugned order passed by the second respondent in Proc.No.26300/A2/2019, dated 12.9.2019, sent on 14.9.2019 and consequently to direct the second respondent to renew the Petitioner's Driving School Licence by application, dated 17.6.2019.

2.W.P(MD)No.19322 of 2019 has been filed seeking to quash the show-cause notice issued by the second respondent in Na.Ka.10815/E4/2019, dated 8.4.2019 and consequently to direct the second respondent to renew the Petitioner's Driving School Licence by application, dated 17.6.2019 which is going to be expired on 14.09.2019.

3.The owner of a Driving School namely, Sudha Driving School is the Petitioner in both the Writ Petitions and both the Writ Petitions involving the same question as to whether the Petitioner is eligible for renewal of the Driving School licence. The petitioner's Driving School has been running from 1983 and its licence had been periodically renewed by the respondents. The last of such renewal is on 15.09.2014. Therefore, the Petitioner applied for renewal of the Driving School Licence on 17.6.2019 itself. In the meanwhile, the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Thanjavur had made a raid in the second respondent's office and at that time, one Singaram @ Sangili has a bag with full of money to the tune of Rs.2,77,000/- and on enquiry, he would state that he collected the said amount on behalf of S.K.M.Sivakumar, Deputy Transport Commissioner, Thanjavur. Therefore, a case was registered against the said Singaram @ Sangili and S.K.M.Sivakumar in Crime No.1 of 2018. It was also alleged in the First Information Report that the said Singaram @ Sangili is working as Manager in the Sudha Driving School. However, according to the Petitioner, the said Singaram @ Sangili has got nothing to do with the Petitioner's Driving School and he is only his relative. The entire raid itself was directed only against S.K.P.Sivakumar, Deputy Transport Commissioner and the said Singaram @ Sangili was incidentally present in the office and not involved in the above crime.

4.While awaiting the renewed licence to be issued, the second respondent had issued a show-cause notice in Na.Ka.No.10815/E4/2019, dated 8.4.2019 alleging that one Singaram

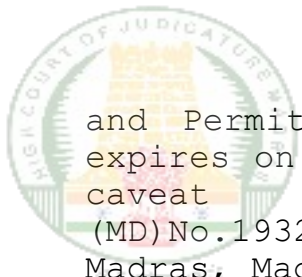


@ Sangili was involved in a criminal case and he has been employed by the Petitioner in the Driving School. Hence demanding show cause as to why the licence of the Petitioner Driving School should not be cancelled, the above show-cause notice has been issued. Challenging the said show-cause notice, W.P(MD)No.19322 of 2019 has been filed. In the said Writ Petition, an order was passed by this Court on 12.9.2019, directing the respondents to process the application made by the Petitioner within a weeks time while staying the operation of the impugned show-cause notice. But without obeying the order of this Court, the second respondent had issued another notice in Proc. No.26300/A2/2019, dated 12.9.2019 which had stated that since no explanation was received from the Petitioner for the show-cause notice, dated 8.4.2019, it was presumed that there was no explanation and hence the Renewal Application, dated 12.6.2019 was rejected. Aggrieved by the said rejection order, W.P(MD)No.20472 of 2019, is filed.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6.The learned counsel for the Petitioner pointed out that as early as on 11.03.2019, at the request of the Inspector of Police, Vigilance and Anti-Corruption Wing, Thanjavur, the Special Judge/Chief Judicial Magistrate, Thanjavur at Kumbakonam, had closed the proceedings in F.A.D.No.01/2019, recording the fact that the FIR registered against the said Singaram @ Sangili in Crime No.1 of 2018 was closed as ''Action Dropped''.

7.As the complaint was closed as ''Action Dropped'' as against the said Singaram @ Sangili, based on which, a show-cause notice was issued. The Petitioner had sent a detailed reply, dated 27.8.2019. In the said reply, it was stated that the said Singaram has got nothing to do with the Driving School, as he was not an employee and no irregularity can be attributed against him. It was further stated that he was only a relative of the Petitioner. Though the show-cause notice, dated 8.4.2019 referred to two of the letters, none of the copies of the two letters were furnished to the Petitioner. Hence the show-cause notice issued by the second respondent may be withdrawn. Yet another representation was given by the petitioner on 29.8.2019 reiterating the same. Though the Petitioner had given valid response/explanation to the show cause notice requesting the second respondent not to take any action against the Driving School, the authorities have refused to renew the Licence to the Petitioner's Driving School. However, without verification of any of the facts, the present impugned order, dated 12.9.2019 was passed by the second respondent rejecting the renewal application of the Petitioner without application of mind. Hence this Court stayed the order of rejection of the renewal application and directed the respondent to issue a temporary driving licence, if otherwise the Petitioner was found eligible. Pursuant to the same, a temporary licence, dated 12.12.2019 in R.No.18884/B4/2019



and Permit No.01/DS/TAN/1989 is issued to the Petitioner, which expires on 14.09.2024. However, the said renewal is issued with a caveat ''subject to disposal of W.P(MD)No.20472 of 2019 and W.P (MD)No.19322 of 2019, pending before the Honourable High Court of Madras, Madurai Bench''.

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8.In the light of the above discussion, the show-cause notice, dated 8.4.2019 is not maintainable, as the said Singaram @ Sangili was not employed by the Petitioner. Even assuming that he was there and a criminal case was foisted against him, the same was closed as ''Action Dropped'', on 11.3.2019 itself. However, the show-cause notice was issued, even without verifying the above facts. Be that as it may, at least after receipt of response/explanation from the Petitioner with all the relevant details to the show-cause notice, dated 27.8.2019 and 29.8.2019, the second respondent ought to have considered the same independently and renewed the Driving School Licence. Without doing so, on a frivolous ground that there was no response from the Petitioner for the show-cause notice, the renewal application was rejected.

9.In such circumstances, the show-cause notice dated 8.4.2019 which is impugned in W.P(MD)No.19322 of 2019 and rejection order dated 12.9.2019 which is impugned in W.P(MD)No.20472 of 2019 are quashed and the renewal of licence for the Petitioner's Driving School issued up to 14.09.2024 is deemed to be valid till the said date.

10.Accordingly, these Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

To

1.The Transport Commissioner,
Transport Department,
Ezhilagam,
Chepauk,
Chennai.



2.The Regional Transport Officer,
Regional Transport Office,
Thanjavur District.

+1 CC to M/s.M/S.C.VAKEESWARAN, Advocate (SR-105197[F] dated
16/12/2019)

+1 CC to M/s.SPL.GP (SR-105328[F] dated 17/12/2019)

COMMON ORDER MADE IN
W.P(MD) NOs.20472 and
19322 OF 2019

and
W.M.P(MD) Nos.15741, 15742,
17005, 17094 and 17095 of 2019
16.12.2019

JMN(07.01.2020) 5P : 5C