

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 29.07.2019

CORAM

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH**W.P(MD)No.4775 of 2017**
and W.M.P(MD)No.3824 of 2017

Sahul Hameed

... Petitioner

Vs.1.The Regional Transport Officer,
Theni,
Theni District.2.The Inspector of Police,
Thenkarai Police Station,
Periyakulam,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorari calling for the records pertaining to the impugned proceedings in Se.Mu Aa.No.12187/E3/2013, dated 30.04.2013 issued by the first respondent and quash the same.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.R.Murugan

Additional Government Pleader

O R D E R

The petitioner has been holding a driving license since 1976. He was employed in a private College. On 04.04.2013, while the petitioner was driving a School Bus bearing Registration No. TN-27-U-3159, a Tractor carrying river sand had obstructed his path. Due to that, the bus had hit a two wheeler parked nearby, as a result of which, a 13 year old youngster was grievously injured and had passed away.

2. A criminal case has been registered as against the driver of the Tractor as well as the writ petitioner in Crime No.142 of 2013 for offence under Section 304 (A) IPC. As far as the criminal case is concerned, trial is said to have been on going. As a consequence of the aforesaid incident, a show cause notice is said to have been issued on 15.04.2013 calling upon the petitioner to show cause why his driving license not be cancelled. Despite a reply filed disowning the accident or the connection to this unfortunate incident, the impugned order has been passed on 30.04.2013 suspending his license.



3. Heard Mr.J.Lawrance, learned counsel appearing for the petitioner and Mr.R.Murugan, learned Additional Government Pleader appearing for the respondents.

4. A glance at the impugned order would show that it is wholly non-speaking. The first respondent-the Regional Transport Officer has merely concluded that the fault lies wholly upon the petitioner and has suspended the licence attributing the entire blame upon him.

5. This cannot be done in the absence of any enquiry and admittedly, no such enquiry has been conducted. There is no whisper of reasoning in the order to justify the conclusion of suspension of license.

6. A Division Bench of this Court, in the case of P.Sethuram Vs. the Licensing Authority, the Regional Transport Officer, Dindigul (2010 WLR 100), considered a similar situation and after considering the provisions of Section 19 of the Motor Vehicles Act, 1988, held that the entitlement of a licensing authority to revoke a license or disqualify a person from holding a license will be availed, only if any of the contingencies prescribed under the provision would stand attracted, such as

(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 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 is 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*

<https://hcservices.ecourts.gov.in/hcservices/> (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,

7. In the present case, the order itself, being non-speaking, that is nothing to indicate satisfaction of any of the conditions above. Moreover, criminal trial is on going. It is only in the course of the trial that it will be established as to whether the petitioner is responsible for the accident or otherwise. I thus conclude that the suspension is pre-mature and the impugned order has no lags to stand.

8. In the light of the aforesaid discussion, impugned order dated 30.04.2013 is quashed. Liberty is however granted to the respondents to take consequential action if the conclusion in the criminal trial is adverse to the petitioner.

9. This writ petition is allowed in the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

CM
To,

1. The Regional Transport Officer, Theni,
Theni District.

2. The Inspector of Police, Thenkarai Police Station,
Periyakulam, Theni District.

+1 CC to M/s. J. LAWRENCE, Advocate (SR-78650[F] dated 30/07/2019)

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KM/ (13.09.2019) 3P 4C