



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD)No.20435 of 2016

and

W.M.P. (MD)No.14614 and 14615 of 2016

K.Chandirasekaran

... Petitioner

/Vs./

- 1.The State of Tamil Nadu
Represented by its
Joint Transport Commissioner,
No.16, Abdulkabarkhan Street,
Tallakulam, Chinnachokkikulam,
Madurai - 2.
- 2.The Licensing Authority /
The Regional Transport Officer,
Madurai (Central),
Madurai.
- 3.The Licensing Authority /
The Regional Transport Officer,
Srivilliputhur,
Virudhunagar District.
- 4.The Inspector of Police (Traffic),
Madurai City Traffic Police Station,
Madurai.

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for records connected with the order of the 2nd respondent dated 27.07.2016 in Proceedings No.23724/E3/2016 and quash the same as illegal, consequently directing the 2nd Respondent to return the petitioner's original Driving License in DL.No.TN 67Z20070001111 to him in accordance with the law within the time stipulated by this Court.

For Petitioner	: Mr.S.Malaikani
For Respondents	: Mr.R.Murugan Additional Government Pleader



ORDER

The petitioner challenges an order dated 27.07.2016 passed by the Regional Transport Officer, Madurai (Central) and seeks a direction to him to return the petitioners' original driving licence.

2. The petitioner has been holding the driving licence since 07.03.2007. On 17.07.2016, it was alleged that the petitioner was driving his vehicle rashly under the influence of alcohol. As a result of that, he collided with a Government Bus causing damage to its windshield and an FIR has been registered in Crime No.126 of 2016 and enquiry is stated to be ongoing. In the meantime, the petitioner has come before this Court challenging the impugned order dated 27.07.2016 permanently cancelling the licence.

3. The cancellation has been effected on a certificate issued by the Casualty Medical Officer, Government Rajaji Hospital, Madurai, to the effect that the driver was under the influence of alcohol. A copy of the medical report has been produced by Mr.A.Thiayarajan. The observations of the examination by the Doctor are to the following effect:

'conscious oriented docile.
Breath smell of alcohol'

4. The Casualty Medical Officer has also opined that though the petitioner has consumed liquor, he was not under its influence.

5. The provisions of Section 19 of the Tamil Nadu Motor Vehicles Act, 1988, [in short 'Act'] providing for the disqualification from holding of a driving licence or revocation of the same, reads as follows:

'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 (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 licence or a licence 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 proviso 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 licence or a driving licence with the consent in writing of the person having the care of the holder of the licence and has ceased to be in such care, it may, for reasons to be recorded in writing, make an order -

(i) disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence ; or

(ii) revoke any such licence.

(2) Where an order under sub-section (1) is made, the holder of a driving licence shall forthwith surrender his driving licence to the licensing authority making the order, if the driving licence has not already been surrendered, and the licensing authority shall, -

(a) if the driving licence is a driving licence issued under this Act, keep it until the disqualification has expired or has been removed ; or

(b) if it is not a driving licence issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which it was issued ; or

(c) in the case of revocation of any licence, endorse the revocation upon it and if it is not the authority which issued the same, intimate the fact of revocation to the authority which issued that licence ;

Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order, made under sub-section (1), disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.

(3) Any person aggrieved by an order made by a licensing authority under sub-section (1) may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either party if so required by that party and may pass



such order as it thinks fit and an order passed by any such appellate authority shall be final.'

6. A Division Bench of this Court, in the case of P.Sethuram vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul, [2010 Writ L.R. 100] has, while considering a case similar to the one before me now has stated that the licensing authority has power to revoke a licence or disqualify a person from holding one for a specific period only, if any of the contingencies prescribed in the provision arise. Thus, in the absence of an allegation, either in the notice or in the impugned order, to the effect that the petitioner is a habitual criminal or a habitual drunkard, the provisions of Section 19 would not be attracted.

7. In the present case, the fact that the petitioner had consumed alcohol is clear from the report of the Casualty Medical Officer. However, in the opinion of the Medical Officer he was not under its influence, meaning, in my opinion, that he continued to be sober and oriented. I am thus of the view that the punishment imposed vide the impugned order is too harsh and not in consonance with the prescription of Section 19 of the Act. The petitioner has stated on affidavit that the income from his driving sustains his family and as such, I am of the view that the licence should be returned to him upon his executing a sworn affidavit to the effect that he will not consume alcohol prior to engaging in driving.

8. It is also made clear that return of licence in terms of this order shall be subject to the order to be passed by the Criminal Court and neither will this order stand in the way of the on-going Criminal proceedings.

9. Upon furnishing of the undertaking as set out in paragraph No.7 above, the driving licence shall be returned to the petitioner. Any violation of the undertaking will lead to immediate suspension of the licence without further reference to the petitioner. This Writ Petition is disposed in the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

Sub Assistant Registrar



To

1.The Joint Transport Commissioner,
No.16, Abdulkabarkhan Street,
Tallakulam, Chinnachokkikulam, Madurai - 2.

2.The Licensing Authority /The Regional Transport Officer,
Madurai (Central), Madurai.

3.The Licensing Authority / The Regional Transport Officer,
Srivilliputhur, Virudhunagar District.

4.The Inspector of Police (Traffic),
Madurai City Traffic Police Station, Madurai.

+1 CC to M/s.S.MALAIKANI, Advocate (SR-79904[F] dated 06/08/2019)

+1 CC to M/s.SPL GP (SR-79947[F] dated 06/08/2019)

Order made in
W.P. (MD) No.20435 of 2016
Dated:05.08.2019

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MS/17.09.2019/5P.7C