

\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 28.11.2019

+

W.P. (C) No.9342/2014

PAWAN KUMAR

..... Petitioner

Through: Ms. Sonika Tyagi, Advocate.

Versus

THE STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Satyakam, ASC, for R-1 & 2 / GNCTD

Mrs. Avnish Ahlawat, SC, DTC with Mr. Nitesh Kumar Singh, Advocate for R-3.

Mr. Rajesh Kumar, SPP with Ms. Santwana, Advocate for R-5/CBI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

: D.N. PATEL, Chief Justice (Oral)

1. This Public Interest Litigation has been preferred for the following prayers :-

“i.) Issue a writ in the nature of mandamus or certiorari or any other writ/writs, direction/directions, order/orders, whereby directing the respondent no 1 & 2 not to renew or issue Heavy Driving licenses by any of the Zonal offices of the Transport department, Delhi without due verification of complete set documents, chain of previous licenses i.e information regarding LMV private, endorsement of LMV Commercial & endorsement of HMTV or any other previous HMTV driving licenses of the concerned persons and should be verified by a separate department in all dist. Zonal offices of transport department.

- ii.) *Issue an appropriate writ whereby directing the concerned investigating authorities to suspend officers, who are named in the FIR bearing no. RC-DAI-2014-AA-0017, Dated-21/05/2014-CBI/ACB (0017) registered by CBI and directions to the agency for report day to day this Hon'ble court till the final investigation of the case.*
- iii.) *Issue an appropriate writ whereby directing the concerned investigating authority of vigilance department of Delhi, which initiated enquiry against the corrupt officials of the transport authority and the concern authority report the entire matter with this Hon'ble court.*
- iv.) *Issue an appropriate writ whereby directing the concerned authorities that apart from the driver of heavy vehicle, the concerned erring officer, who issued the direct heavy driving license of defaulter, be also prosecuted under the provisions of I.P.C and motor vehicles Act.*
- v.) *Issue an appropriate writ whereby directing the concerned authorities not to make changes in any of the data of Driving license record in respect of all old & new record maintained by transport authority i.e Cards record, Slip record (HCL Software), NIC Software record called as Sarathi software record.*
- vi.) *Issue appropriate writ of Mandamus, by directing a CBI inquiry in to the entire appointment process of the second respondent for drivers done in the year 2008-2009, where the candidates got the Job with fake driving licenses from Mathura & other parts of the country and direct the respondents totally unfit for driving heavy of Govt vehicles.*

OR

- vii.) *An alternative order for an investigation by special investigating team, which shall be constituted by this court for the purpose of investigating the fraudulent driver's fake licenses & investigate their driving licenses whether using forge as genuine for heavy vehicles to get the govt jobs.*
- viii.) *Direction for registration of criminal cases under various provisions of Indian penal laws against the high level officers and others involved in the illegal appointment including the officials of respondent no.2*
- ix.) *Direct the respondent no.1 as well as respondent no.2 to frame rules / procedures/ guidelines for the purpose of issuing the LMV Licenses & Heavy licenses by the transport department of Delhi in transparent manner and as per the procedure of law after keeping the safety and security of the common man at highest level.*
- x.) *Direct the respondent No.1 & 2 to establish a proper training institute and guidance centre with strict rules and regulations for regular training to drivers so as to avoid fatal accidents, which occurs as routine in the Delhi, due to mere negligent driving by the drivers especially of the heavy vehicles.*
- xi.) *There is a need to investigate the various layers of irregularities committed intentionally by respondents in the present case and a central investigating agency like CBI or Delhi Police or special investigating team, may be directed to investigate the matter and report should be submitted within a prescribed time frame to appropriate authority, who in turn to take suitable action and action taken report be submitted to the Hon'ble court."*

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that several grievances have

been ventilated in this writ petition about the renewal or issuance of the heavy driving licences without verification of the complete set of documents and without verification of the previous licence, i.e., information regarding endorsement of Light Motor Vehicle Private and LMV Commercial. Similarly, there are grievances ventilated about taking action against the officers who are named in the FIR lodged by CBI. Moreover, there is allegation about non-production of the CD which contains the video of the driving test conducted by the respondents.

3. We have heard the learned counsel appearing for the respondents, who submitted that verification of the documents are going on in accordance with law and in conformity with the guidelines which have been given by the high level officers of the respondents to its sub-ordinates. The respondents have taken us through various paragraphs of their counter-affidavit, annexures and the status report filed by them. It is submitted by the counsel for the respondents No.1 and 2 that as of now a specialized agency has been engaged for the purpose of videography of the driving test; initially the videography was maintained only for 15 days but now it is to be maintained for three months. Necessary circulars and fresh guidelines have also been issued which are formed part and parcel of the affidavit and the status report filed in this case by the respondents No.1 and 2.

4. Having heard learned counsel for both the sides and looking at the facts and circumstances of the case, it appears that 162 fake licences issued earlier have now been cancelled by the Transport Department. CBI is enquiring into the matter and necessary office memorandum giving guidelines to the transport officers has also been issued. For the ready reference, paragraphs (iv) and (v) of the counter-affidavit filed by

respondent Nos.1 and 2, read as under:-

- “IV. At the outset, it is submitted that all the alleged 162 fake licenses have been cancelled by the Transport Department. Details of the cancelled licenses have been uploaded on the website of the transport department for the information of the general public and further for the employer's to verify the license details before employing someone. FIR has been lodged at PS K. N. Katju Marg, Rohini being FIR No. 904 of 2014. Further departmental proceedings have already been initiated against the concerned MLOs and Inspectors. Charge- Sheets have been issued against Sh. R.S. Ranga, Motor Licensing Officer, Sh. Prem Raj, Motor Licensing Officer, Sh.Manish Puri, Motor Vehicles Inspector and Sh. R.G. Singh, PLTI (Copies annexed A). Further CBI has also registered a case bearing RC No.DA1-2014-A0017/CBI/ACB/Delhi. It is submitted that the department has taken serious view of the matter and strict action has been taken by the department.*
- V. The department has already issued directives to its Zonal Offices not to renew or issue any Heavy Driving License without due verification of complete set of documents, chain of previous licenses i.e. information regarding LMV private, endorsement of LMV Commercial and endorsement of HMTV or any other previous HMTV driving licenses of the concerned person and the said verification be made by a separate branch in all the district / zonal offices of transport department. It is submitted that the authorised driver's training institutes are already available.”*

5. In view of the aforesaid counter-affidavit enough and adequate steps have been taken after the incident pertaining to 162 fake licences were brought to the notice of the respondents. Now, the directions have been issued to the effect that the heavy motor vehicle licences should not be

issued without proper verification as stated in the aforesaid paragraph.

6. It further appears from the facts of the case that vide our order dated 09.05.2012 in this writ petition, possibility of the video recording of the driving test was to be verified by the respondents and now the respondents have also started videography of the driving test, etc. Status report has been filed by the respondents dated 01.12.2017. For the ready reference paragraph, b, c, d and e of the said status report read as under :-

- “a. As mentioned in the order at para no.3 that, 'respondents are not video-recording the practical test of the applicants', is incorrect, as the details in the matter is as under;-*
- b. That by letter dated 22.9.2017, the Three driving training institute which are the only institutions for conducting test for issuance of Heavy Commercial Vehicle Driving License as well for LMV and TSR were informed about the order regarding videography. A copy of the letter dated 22.9.2017 is annexed herewith and marked as Annexure R1/A. Another letter dated 18.10.2017 was issued to the said institutes seeking action taken reports. A copy of the said letter dated 18.10.2017 is annexed herewith and marked as Annexure R1/B. Letters dated 30.10.2017, 1.11.2017, 14.11.2017 were received in response, copies whereof are marked as Annexure R1/C, R1/D, & R1/ E. The Two Institutes respectively started their Videography from 30th October 2017 (Institute of Driving & Training Research, Loni Road & Sarai Kale Khan). The Society for Driver Training Institute, Burari informed that they are expecting the Videography to be functional from 1.12.2017.*
- c. By letter dated 23.11.2017, IDTRs, Loni & Sarai Kale Khan, and SDTI Burari were requested to provide the details of videography of tests conducted by them on 23.10.2017 & 06.11.2017 (as per directions at point no.9*

of the order). The information received from the concerned Institutes is as follows:-

S.No	Name of the Institute	Remarks	Placed at
1	IDTR, Sarai Kale Khan	Vide letter dated 24.11.2017, it is informed that they have started videography of the test but due to un-familiarization with the video recording device, some recording has been deleted by the device automatically including the recording of 06.11.2017. They have now started recording of test since 02.11.2017 and enclosed a CD in this regard pertaining to 2.11.2017.	Annexure-R1/F and Test Report of Tests conducted on 23.10.2017 & 6.11.2017 is annexed herewith as Annexure R1/G & H CD and Exhibit X-1 .
2	IDTR, LONI	Vide letter dated 24.11.2017, IDTR, Loni Road has submitted the details of applicants for 23.10.2017 and also submitted the CD pertaining to 6.11.2017.	Letter is annexed as Annexure R1/I , Report of Tests conducted on 23.10.2017 is annexed as Annexure R1/J CD pertaining to tests conducted on 6.11.2017 is annexed as Exhibit X-2 .
3	DTI, Burari	Vide letter dated 14.11.2017 it is informed that the Automated Driving Test fitted with CCTV	Letter is annexed as Annexure

		cameras is near completion and is expected to start w.e.f. 01.12.2017. However, the details of applicants appeared for competency test has been submitted by them.	R1/K, Reports pertaining to Tests conducted on 23.10.2017 and 6.11.2017 is annexed herewith and marked as Annexure R1/L & M.
--	--	--	---

- d. *Regarding para no.4 i.e. endorsement of commercial license of Sh. Vishnu Sharma it is submitted that copy of guidelines of endorsement of commercial licenses of other States is annexed herewith and marked as Annexure R1/N. The said guidelines clearly indicate the procedure for other States driving license under rule 10 of the Delhi motor vehicle rules 1993. The said rule 10 (1) provides for communication of particulars of driving license granted by one licensing authority to another licensing authority. It provides that in case a driving license issued by any other state or union territory of India is submitted for renewal, and there are good reasons to suspect that it is not genuine or some tampering has been done, the licensing authority shall verify the facts of its issue from the issuing authority by sending one copy of the renewing form to it and requesting that authority to verify the same within 30 days by post under certificate of posting. It further provides that in case of renewal of driving license for MMV/HMV, the applicant shall be put to a driving test as if not defined under sub - rule (3) of rule 15 of the central motor vehicles rules, 1989 at government motor driving training school irrespective of intimation/non-intimation of particulars from issuing authority. The explanation to*

the said rule makes it abundantly clear that irrespective of sub - rule (1) every MMV/HMV driving license holder, having a license issued from outside the state shall have to appear for and pass the driving test apart from the above said verification as mentioned above before the renewal thereof in Delhi is allowed. It is submitted therefore that the rule does not permit an automatic renewal of an outside driving license in Delhi without any tests therefore. the test has been made mandatory in respect of driving license for MMV/HMV, which is the subject matter of present petition. The guidelines are annexed herewith also provides the authority to ensure: 1.for renewal/duplicate of any of the transport category driving license, issued from other states, the licensing authority must ensure verification from national register available at the website and specifically record the fact of verification in remark Column of the software at the time issuing renewed/endorsed/duplicate license. The issuing authority will be responsible if it is found that the older transport category driving license of the other state was not verifiable from the national register.

- e. Regarding issuance of Driving License to one Sh. Deepak Kumar as detailed at point no.5 of the order, it is submitted that at present there is no mechanism to check the genuineness of the School Leaving Certificate submitted by the applicant at the time of endorsement for commercial Learning license. Comments in this regard can be submitted only after receipt of such document from the Counsel of the Petitioner. ”*

7. In view of the aforesaid status report, now the respondents are properly verifying the documents/endorsements with respect to earlier driving licences, videography of the same is also going on at the behest of the respondents No.1 and 2.

8. It further appears from the facts of the case that over and above the

initial guidelines dated 16.10.2012 (page 227), fresh guidelines dated 09.03.2018 have also been issued. The fresh guidelines dated 09.03.2018 issued by the respondents read as under :-

- “(1) Educational certificate submitted by the applicants should be verified from concerned board/institution official website.*
- (2) In case the data is not available on website of concerned board/institution; post verification should invariably be carried out, in case the report is found adverse, his/her licence shall be cancelled under intimation through registered/speed post to the applicant and criminal proceedings should be initiated.*
- (3) In case the certificate is not issued by any Board; School Leaving Certificate issued by the concerned school may be verified through registered /speed post only, instead of any by hand verification, failing which Licensing Authority will be held responsible for any lapse in this regard.*
- (4) Proof of address may be verified preferably through Aadhar/Passport/Voter ID.*
- (5) Testing agencies as on date i.e. IDTR & DTI are hereby directed to send e-mail at the end of the each day to IT Branch, Head Quarter, Transport Department, GNCTD for uploading the testing results of each day on official website of Transport Department i.e. www.Transport.delhigovt.nic.in for the information of all.*
- (6) The data of Driving Licenses will be made available in searchable form so that online verification of Driving Licenses can be made.”*

9. Looking to the status report filed by the respondents dated

19.05.2018, it appears that there is due compliance of the fresh guidelines issued by the respondents. Now, the CD of the videography of the driving test is also maintained for three months whereas, earlier it was maintained for 15days/30days (letter dated 29.06.2018 at page 241).

10. Looking to the allegations levelled by the petitioner in paragraph Nos.2 and 3 of the affidavit filed by the petitioner (page 404) especially about the CDs of the videography, a detailed affidavit dated 20.02.2019 has been filed by respondents No.1 and 2. The paragraph 2 of the said affidavit reads as under :-

“2. That some of the averments made by the Petitioner in para 2-7 are the admitted factual stance of the Transport Department, Government of NCT of Delhi, which can be ascertained by a bare perusal of the status report filed by the Department on 02.07.2018. This admitted position is to the extent that in the said status report so filed, the Department had apprised this Hon’ble Court that owing to lack of direction(s) mandating the quantum of time for which the data of videography was to be retained before it was erased, the videography data for the practical tests conducted on 16.01.2018 as well as 21.02.2018 was not available because sufficient time had elapsed when the order was passed by this Hon’ble Court issuing direction for production. Since there were no directions regarding the mandatory period for which the videography data must be retained, the centres took it upon themselves to retain the data for the period of time that they could accommodate according to their technical capacities. Thus, some driving training institutes retained the data for as long as 3 months and some driving training institutes retained it for only 15 days. Since the time period for which this Hon’ble Court had directed the videography data to be placed on record fell outside the time duration which the centers had the technical capability to retain the data, the CDs containing the videography of the practical tests conducted on 16.01.2018 and 21.02.2018 could not be made a part of the status report.”

11. It further appears from the affidavit filed by respondent Nos.1 and 2 that a memorandum of agreement has been entered into between Transport Department, Government of NCT of Delhi and Maruti Suzuki Foundation (Trust) for the videography of the driving test etc. and now the same is to be retained by the respondents for three months. For ready reference paragraph 9 of the aforesaid affidavit reads as under :-

“9. That vide order dated 15.09.2017, this Hon’ble Court was pleased to direct the Respondents, specifically in paragraph 4 of the order, to place a status report before the Court with regard to the retention of the video recording as well as the monitoring of the entire system. In compliance of the aforementioned directions, it is humbly submitted that the policy which has been formulated by the Transport Department, Government of NCT of Delhi is as under:

On 27.12.2018, a Memorandum of Agreement was signed between the Transport Department, Government of NCT of Delhi and Maruti Suzuki Foundation (a trust) with the following aims & objectives:

- i. To make the process of issuance of driving license more efficient and effective by use of relevant technology by setting up of 11-Automated Driving Test Track centres to cater all the zonal office of Transport Department. These centres will have inbuilt videography. This Automated Driving Testing system has been started as a pilot project in the test centre at SARAI KALEN KHAN for the residents of south & central Delhi. The said project is likely to come up in the rest of the zonal offices of Delhi within 6 to 9 months as the work is already in progress. As far as commercial vehicles are concerned, directions have been issued to all*

the 3 institutions to retain the videography at least for a period of 3 month (A copy of the MOA is annexed herewith and marked as "Annexure A").

- ii. *The Automated Driving Test centres will have five elements- (1) Designing and the Lay Out, (2) Civil infrastructure (3) Technology implementation (4) Integration with the existing licensing system and (5) Operations and maintenance."*

12. Thus, in view of the aforesaid actions already initiated by the respondents, we see no reason to further monitor this case. Nonetheless we hereby direct the respondents to observe their own fresh guidelines dated 09.03.2018 (page 236) and to continue with the videography as per our order dated 20.04.2017, the videography will be continued to be maintained by the respondents as per their own circular.

13. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

NOVEMBER 28, 2019/AA

C.HARI SHANKAR, J.