

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 16 of 2020
and
W.M.P. No. 12 of 2020

M. Ramaraj

... Petitioner

-vs-

The Licensing Authority/Regional Transport Officer,
Coimbatore (Central),
Coimbatore - 641 018.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 25.11.2019 passed by the Respondent in Se. Mu No. 56719-E4-2019 suspending the disqualifying the Petitioner original Driving License for a period of 4 months from 12.11.2019 to 11.03.2020 and consequently direct the Respondent to return forthwith the Petitioner original driving license bearing number TN60Z 20090002693, without any endorsement and within a specified time as may be fixed by this Court.

For Petitioner :Mr. R. Krishnaswamy

For Respondent :Mr. Annai Ezhil, Government Advocate

O R D E R

Heard Mr. R. Krishnasamy, Learned Counsel for the Petitioner, Mr. Annai Ezhil, Learned Government Advocate appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is a driver in the Tamil Nadu State Transport Corporation and while on duty, the bus bearing registration no. TN 38 N 2566/88 driven by him had met with an accident on 10.11.2019. The Police Officer investigating the accident had seized the driving licence of the Petitioner on 10.11.2019 and forwarded the same to the Licensing Authority,

and the Licensing Authority by order No. 56719/E4/2019 dated 25.11.2019 has suspended the driving licence of the Petitioner for the period from 12.11.2019 to 11.03.2020. In that backdrop, relying on the decision of the Division Bench of this Court in P. Sethuram -vs- Licensing Authority, Regional Transport Officer, Dindigul (2010 WLR 100) holding that the provisions of the Motor Vehicles Act, 1988, (hereinafter referred to as 'the Act' for short) do not empower the Licensing Authority to suspend or revoke a driving licence for a first offence, the Petitioner has filed this Writ Petition challenging the order dated 25.11.2019 passed by the Licensing Authority and to consequently direct the Licensing Authority to return the original driving license of the Petitioner.

3. Learned Government Advocate appearing for the Respondent submits that certain amendments have been made to the Act, which have come into force from 01.09.2019 onwards and clause (4) in Section 206 and clause (1-A) in Section 19 have been inserted to the Act, which have bearing to the contentions raised in the Writ Petition and read as follows:-

"206. Power of police officer to impound document:-

....

(4) A police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the driver of a motor vehicle has committed, an offence under any of Sections 183, 184, 185, 189, 190, 194-C, 194-D or 194-E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under Section 19:

Provided that the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgement therefor, but such acknowledgement shall not authorise the holder to drive until the licence has been returned to him."

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

....

(1-A) Where a licence has been forwarded to the licensing authority under sub-section (4) of Section 206, the licensing authority, if satisfied after giving the holder of the driving licence an opportunity of being heard, may either discharge the holder of a driving licence or, it may for detailed reasons recorded in writing, make an order

disqualifying such person from holding or obtaining any licence to drive all or any class or description of vehicles specified in the licence:-

(a) for a first offence, for a period of three months;

(b) for a second or subsequent offence, with revocation of the driving licence of such person:

Provided that where a driving licence is revoked under this Section, the name of the holder of such driving licence may be placed in the public domain in such manner as may be prescribed by the Central Government."

It is submitted that in view of the same, the lacunae highlighted by the Division Bench of this Court no longer exists, and the impugned action of seizing the driving licence of the driver of the vehicle involved in an accident by the Police Officer and forwarding it to the Licensing Authority, now has statutory backing and as such, that decision of the Division Bench of this Court would not have any applicability in cases where the accident has occurred after the amendments to the Act have come into force, as in the present one.

4. In response to the aforesaid submissions made, Learned Counsel for the Petitioner highlights that the aforesaid order of suspension dated 25.11.2019 passed by the Licensing Authority has been purported to have been made under clauses (1)(d) and (f) in Section 19 of the Act read with Rule 21 of the Central Motor Vehicles Rules, 1989, and not in the exercise of power conferred by clause (1-A) in Section 19 of the Act. He further contends that even in clause (1-A) in Section 19 of the Act, the Licensing Authority has been empowered to disqualify a person from holding driving licence for a first offence for a period of three months and as the driving licence of the Petitioner has been seized on 10.11.2019, the aforesaid period of three months has also now lapsed, and the suspension of licence for a period exceeding that limit is without jurisdiction and the Licensing Authority would have to return the driving licence to the Petitioner. It is further pleaded that on account of seizure of the driving licence, the Petitioner is out of employment and any further delay in returning his driving licence causes hardship for his livelihood and as such, the impugned order passed by the Licensing Authority suspending the driving licence of the Petitioner has to be set aside and the driving licence of the Petitioner has to be returned to him.

5. Having regard to the aforesaid submissions made, this Court without expressing any view on the correctness or entitlement of the claim made on behalf of the Petitioner, sets aside the

impugned order 25.11.2019 passed by the Licensing Authority and remits the matter to the Licensing Authority for fresh consideration from the stage after issuance of show cause notice. It is left open to the Petitioner to place the aforesaid contentions in his explanation to the show cause notice issued by the Licensing Authority for suspension of his licence. If the explanation has already been filed without such contentions raised, the Petitioner is permitted to file additional explanation in that regard. After affording full opportunity of personal hearing to the Petitioner, the Licensing Authority shall consider each of the contentions raised and pass reasoned orders on merits in accordance with law, and shall communicate the decision taken to the Petitioner under written acknowledgment, and a report of such compliance shall be filed before the Registrar (Judicial) of this Court by 31.03.2020.

6. The Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vjt
To

The Licensing Authority/Regional Transport Officer,
Coimbatore (Central),
Coimbatore - 641 018.

Copy to:
The Registrar(Judicial)
Madras High Court,
Chennai-104.

+1cc to Mr.V.Ajoy khose, Advocate SR.13929
+1cc to the Government Pleader SR.14666

RV(CO)
CB(04/03/2020)

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