

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.1206 of 2018
and
WMP No.1509 of 2018

Jaisiva Driving School,
Rep.by its Proprietor,
R.Sivadoss,
No.1425, Thiruvalluvar Nagar,
Mogappair,
Chennai 600 037. ...Petitioner

.v.

- 1.The Principal Secretary/
Transport Commissioner,
Chepauk,
Chennai 600 005.
- 2.The Regional Transport Officer,
Ambattur,
Chennai 600 053. ... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 2nd respondent in proceedings Pro.R.No.47966/A3/2017 dated 4.1.2018 and quash the same.

For Petitioner : Mr.V.Manisekaran

For Respondents: Mr.K.Parameswaran
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order passed by the 2nd respondent in his proceedings dated 04.01.2018, wherein, the licence of the driving school run by the petitioner was suspended for a period of one month, by exercising the powers under rule 28 of the Central Motor Vehicles, Act, 1989.

2.The petitioner was running a driving school based on the licence issued by the 2nd respondent. This driving school is in existence from the year 1999 onwards. While so, the petitioner received a show cause notice dated 14.12.2017, sent by the 2nd respondent by informing the petitioner that a

complaint has been made against the petitioner by the Commissioner of Customs on the ground that he approached the petitioner driving school for renewal of his driving licence and also paid a sum of Rs.2000/- and when it was getting delayed, the same was questioned and the staff belonging to the driving school is said to have behaved in a rude manner towards the complainant. The petitioner on receipt of the show cause notice has given a reply on 25.12.2017. After the reply was received by the 2nd respondent, the impugned proceedings came to be passed on 04.01.2018, suspending the licence for a period of one month.

3.Mr.V.Manisekaran, learned counsel appearing on behalf of the petitioner submitted that the 2nd respondent has passed the order in an arbitrary manner even without considering the reply given by the petitioner. The learned counsel further submitted that the 2nd respondent has merely mentioned in the impugned order that the reply is not satisfactory and it is not acceptable and thereafter proceeded to suspend the licence. The learned counsel further submitted that the suspension of licence of a driving school involves civil consequences and therefore the 2nd respondent ought to have followed the principles of natural justice and therefore assigning reasons in the impugned order becomes mandatory before the licence is suspended. The learned counsel also drew the notice of this court to Clause 28 of the Central Motor Vehicles Rules and submitted that the 2nd respondent did not even mention in the impugned proceedings under which Clause of the said rule the violation was committed by the petitioner. Therefore, the learned counsel submitted that the impugned proceedings of the 2nd respondent is an error apparent on the face of the record and the same requires the interference of this Court.

4.Per contra, Mr.Parameswaran, learned Government Advocate appearing on behalf of the respondents placed reliance upon the counter affidavit filed by the respondents. The learned counsel submitted that the staff belonging to the driving school had behaved in a very rude manner against the complainant and there was no proper explanation as to why the petitioner had demanded a sum of Rs.2000/- for the renewal of the licence and therefore, the respondents were perfectly right in suspending the licence by invoking the powers under Rule 28 of the Central Motor Vehicle Rules.

5.The learned Government Advocate further submitted that the licence was suspended on the ground that the petitioner lacks good moral character and therefore considering the facts and circumstances of the case, the licence was suspended for a period of one month.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.The sum and substance of the complaint given against the petitioner is that the complainant had paid a sum of Rs.2,000/- for renewal of his licence and when it was not done on time, he questioned the same and the staff belonging to the driving school had acted in a rude manner and had abused the complainant. When a show cause notice was issued to the petitioner, the petitioner had given a detailed reply on 25.12.2017. In this reply, the petitioner had explained the entire case and has taken a very categorical stand that the complainant, his wife and his daughter were the once who had scolded the staff belonging to the driving school and had abused them and they have thereafter brought out a story as if, the staff behaved in a rude manner. Therefore, the petitioner has taken a stand that the complaint itself was given with an ulterior motive.

8.The reply given by the petitioner involves some appreciation of facts. The fact as to who behaved in a rude manner can be ascertained only by way of a personal enquiry. Unfortunately in this case the 2nd respondent had proceeded to pass the impugned order by merely stating that the explanation given by the petitioner is not satisfactory and it is not acceptable. Apart from these two words, there is absolutely no reason assigned in the impugned order as to how the 2nd respondent came to a conclusion that the staff belonging to the petitioner behaved in a rude manner against the complainant. Probably, the status of the complainant had swayed the mind of the 2nd respondent and made him come to such a conclusion. The 2nd respondent did not understand that when it comes to a complaint which can end up in civil consequences, the status of the complainant is not important and it is the issue that is involved that becomes more pertinent. The petitioner had taken a very specific stand that the complainant and his family members behaved in a rude manner against the staff of the driving school. It is not known as to why this statement cannot be true more particularly when this was not even enquired by the 2nd respondent. Looking at the impugned order from any angle, this Court is satisfied that it is illegal and manifestly arbitrary. Therefore, the impugned order passed by the 2nd respondent requires the interference of this Court.

In view of the above, the impugned proceedings of the 2nd respondent dated 04.01.2018, is hereby quashed and this writ petition is accordingly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

To

1.The Principal Secretary/
Transport Commissioner,
Chepauk,
Chennai 600 005.

2.The Regional Transport Officer,
Ambattur,
Chennai 600 053.

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