

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 29.07.2020

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.9818 of 2020
and
W.M.P.No.11932 of 2020

P.Packiyaraj

... Petitioner

Vs.

The Licensing Authority/Regional Transport Officer,
The Office of the Regional Transport Officer,
Dr.Balasundaram Road,
Coimbatore - 641018.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus to direct the respondent to return forthwith petitioner original driving license bearing No.TN59W20050000149 without any endorsement and within a specified time as may be fixed by this Hon'ble Court.

For Petitioner : Mr.V.Ajay Khose

For Respondent : Mr.A.Arul Doss

Government Advocate

O R D E R

(The case has been heard through video conference)

This writ petition has been filed for a direction to the respondent to return the original driving license of the petitioner, which was seized from the petitioner on 25.01.2020.

2. The case of the petitioner is that the petitioner is a driver working in the Tamil Nadu State Transport Corporation (Coimbatore) Ltd. The accident took place on 25.01.2020, which resulted in registration of an F.I.R. in Crime No. 31 of 2020, dated 25.01.2020 for an offence under Sections 279, 304 (A) IPC. The petitioner was initially kept under suspension and later it was revoked by an order dated 24.02.2020. Immediately after the accident, the driving license of the petitioner was seized by the respondent. According to the petitioner, the seizure of the original driving license was

not in accordance with the Motor Vehicles Act and the case of the petitioner did not fall under Section 19(1) of the Motor Vehicles Act and therefore, the respondent did not have the power or jurisdiction to seize the driving license of the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

3. Mr.V.Ajay Khose, learned counsel appearing on behalf of the petitioner submitted that the issue involved in this writ petition is squarely covered by the Division Bench judgment of this Court in the case of P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer reported in 2010 Writ Law Reporter page 100. The learned counsel specifically relied upon paragraph Nos.8 to 11 of the judgment and the same is extracted hereunder :-

"8.A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any license or disqualify a person for a specified period from holding or obtaining a driving license, if any of the contingencies prescribed in Clauses (a) to (h) of Sub Section (1) of Section 19 arises. Moreover, the power under Section 19(1) can be invoked only after giving an opportunity of being heard to the holder of the license and for reasons to be recorded in writing.

9.But in the case on hand, the license of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19(1) of the Act, after getting a report from the police. Therefore the impounding of the license has actually preceded the issue of show cause notice.

10.Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall.

11.The respondent has, in the impugned order, preconcluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the

Motor Vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving license cannot be taken to be passed after due application of mind."

4. Heard Mr.V.Ajay Khose, learned counsel appearing on behalf of the petitioner and Mr.A.Arul Doss, learned Government Advocate appearing for the respondent.

5. The case in hand is squarely covered by the judgment of the Division Bench that was relied upon by the learned counsel for the petitioner. The respondent can seize the original driving license only if the case falls under Section 19(1) Clauses (a) to (h) of the Motor Vehicles Act. Admittedly, in this case, the criminal case is still under investigation and therefore, the respondent cannot retain the original driving license of the petitioner.

6. In view of the above, the respondent is directed to return the original license of the petitioner within ten days from the date of receipt of a copy of this order. It is made clear that this order will not stand in the way of the respondent from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act arises or if any of the Rule prescribed by the Central Government in pursuant of Section 19(1)(f) are violated.

7. This writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Licensing Authority/Regional Transport Officer,
The Office of the Regional Transport Officer,
Dr.Balasundaram Road,
Coimbatore - 641018.

+1cc to Mr.V.Ajay Khose , Advocate SR.No. 25551
+1 cc to Government Pleader Sr.No. 25626

W.P.No.9818 of 2020

A.SK(21/08/2020)