

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16332 of 2018
and
WMP.Nos.19479 & 19480 of 2018

Dr.K.Mujibur Rahman, M.D.,
S/o.Mr.L.Kamal Batcha. Petitioner

Vs.

- 1.The Principal Secretary to Government,
Transport Department,
Government of Tamilnadu,
Fort St. George, Chennai 600 009.
- 2.The Deputy Transport Commissioner,
No.7/2-4, Chairman Chidambaram Street,
West Shanmugapuram, Villupuram-605602.
- 3.The Regional Transport Officer & The Licensing
Authority,
Regional Transport Office, Ulundurpet,
Villupuram District.
- 4.The Motor Vehicle Inspector (Grade-1),
Regional Transport Office, Ulundurpet,
Villupuram District. Respondents.

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorari, calling for the records from the second and third respondents insofar as it relates to the order passed by the second respondent in his proceedings in Se.Mu.Order No.30996/E-3/2017 dated-/12/2017, signed on 22.12.2017 as confirmed by the third respondent in his proceeding Se.Mu.Aa.No.227/Aa4/2018 dated 16.03.2018 and quash the said orders as illegal, void and without jurisdiction, award costs and damages.

For Petitioner : Mr.Jayendra Krishnan

For Respondents : Mr.A.Aruldoss
Government Advocate.

O R D E R

This writ petition has been filed challenging the order passed by the second respondent suspending the driving licence of the petitioner for the period from 05.12.2017 to 04.03.2018.

2.The case of the petitioner is that he was returning to Thanjavur from Chennai on 17.11.2017 and his car was intercepted by the officials belonging to the Transport Department. The petitioner was informed that he was driving the car beyond the speed limit and he was asked to pay the fine. The petitioner denied the factum of over speed and he left the place. Subsequently, a notice was issued to the petitioner on the ground of over speeding and an order came to be passed by the third respondent on 22.12.2017 suspending the driving licence of the petitioner for the period from 05.11.2017 to 04.03.2018.

3.Aggrieved by the orders passed by the third respondent, the petitioner filed an appeal before the second respondent and the second respondent by impugned proceedings dated 16.03.2018 confirmed the order suspending the driving licence of the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The learned counsel for the petitioner submitted that the driving licence has been suspended in exercise of the powers under Section 19(1)(c) and 19(1)(i) of the Motors Vehicles Act 1988, based on the report given by the fourth respondent. The learned counsel submitted that the third respondent did not have the power or jurisdiction to suspend the licence under these provisions since these provisions will not apply in the case of over speeding of a motor vehicle. In order to substantiate the submissions, the learned counsel read over the concerned provisions and the same is extracted here under:

"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 the -

(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 ; 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 - or

(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 ; "

5.Per contra, Mr.A.Aruldoss, learned Government Advocate, appearing on behalf of the respondents, there is absolutely no grounds to interfere with the order passed by the respondents suspending the driving licence of the petitioner for a period of three months.

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

7. In the considered view of this Court, the orders passed by the third and second respondents suffers due to non-application of mind. The order passed by the third respondents is merely a cyclo styled order where the particulars have been filled up. The provisions under which the driving licence has been suspended will not apply to the facts of the present case. The provisions mentioned in the impugned order passed by the third respondent will apply in a case where the motor vehicle is involved in a commission of a cognizable offence. Admittedly that is not the case in hand. The order passed by the third respondent has been mechanically confirmed by the second respondent. In the considered view of this Court, the order suffers from non-application of mind and it is beyond the jurisdiction of the respondents since the facts of the present case does not fall within any of the conditions stipulated under Section 19 of the Motor Vehicles Act. Therefore, the impugned order requires interference of this Court.

8. In the result, the impugned order passed by the second respondent confirming the order passed by the 3rd respondent is hereby quashed and accordingly this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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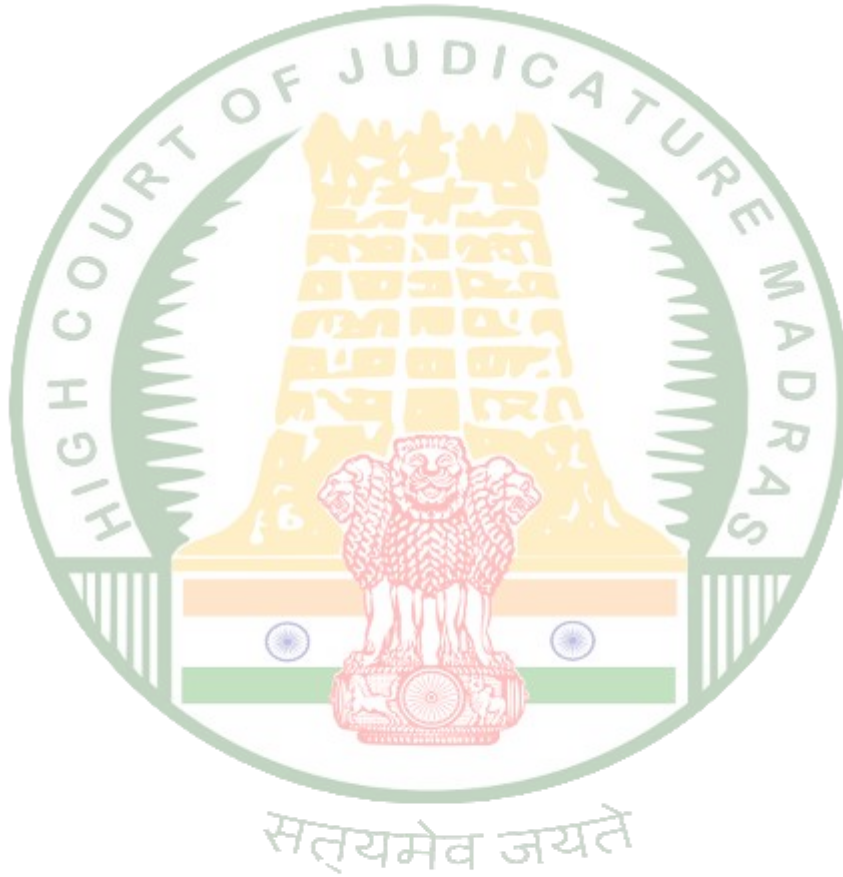
To

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CB(18/08/2020)



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