



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD)Nos.24216 & 24217 of 2017 and 1011 of 2018

and

WMP (MD) Nos.20327, 20328 of 2017 and 1054 of 2018

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S.Thiyagarajan	:Petitioner in W.P. (MD)No.24216/2017
K.Venkatraman	:Petitioner in W.P. (MD)No.24217/2017
V.Srinivasan	:Petitioner in W.P. (MD)No.1011/2018

Vs

1.The Regional Transport Officer,
Thanjavur District,
Thanjavur.

2.Mr.Mukkannan,
S/o Anantha Raman,
Regional Transport Officer,
Thanjavur.

:Respondents in all WPs.

COMMON PRAYER: Writ petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the order passed by the 1st respondent in his proceedings R.Nos.61875/B5/2017, 61874/B5/2017 dated 11.12.2017 and R.No.65282/B3/2017 dated 04.01.2018 and quash the same as illegal.

For Petitioners
(in all WPs)

: Mr.M.Ajmalkhan,
Senior Counsel
for Mr.R.Gandhi

For Respondent No.2
(in all cases)

: Mr.Rajkumar

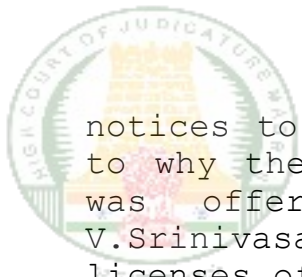
For Respondent No.1
(in all cases)

: Mr.P.Mahendran
Additional Government Pleader

C O M M O N O R D E R

Heard the learned counsel for the Writ petitioners and the learned Additional Government Pleader appearing for the Regional Transport Officer, Thanjavur. The authority who passed the impugned orders had been impleaded in person as the second respondent. I also heard the learned counsel for the second respondent.

2. The Writ petitioners had been issued with the Driving school licenses by the Licensing Authority/Regional Transport Officer, Thanjavur. The Licensing Authority issued show cause

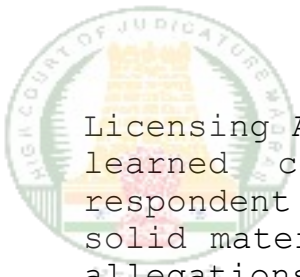


notices to the petitioners herein, calling upon them to explain as to why their licenses should not be revoked. While no explanation was offered by K.Venkatraman and S.Mahesh @ Thiagarajan, V.Srinivasan had offered an explanation. However, the driving school licenses of all three writ petitioners were revoked by the Licensing Authority. The orders in respect of K.Venkatraman and S.Mahesh @ S.Thiagarajan were passed on 11.12.2017, license of V.Srinivasan was revoked vide order dated 04.01.2018. All the three revocation orders are under challenge in these three Writ Petitions.

3.The Licensing Authority had filed a detailed counter affidavit justifying the impugned orders. Since serious allegations had been made against the said Authority, who had been impleaded in person, an independent counter affidavit has been filed by him in his personal capacity also. The various allegations made by the writ petitioners have been stoutly controverted.

4.According to the second respondent, he did not dance to the tunes of the writ petitioners herein. Unless he was fully satisfied that the applications submitted by the petitioners herein were in order, he would not clear the same. This had embittered the petitioners herein. They set up a third party to lodge a false vigilance complaint against him. The learned counsel appearing for the second respondent took me through the typed set of papers filed by him to substantiate his contention that the applications submitted by the writ petitioners were not in order and that in quite a few cases forged certificates had been furnished. The learned counsel for the second respondent submitted that the second respondent had preferred criminal complaint in this regard. Also, at the instance of the second respondent, Crime No.119 of 2017 was registered against the petitioners herein on the file of Tamil University Police Station, Thanjavur.

5.The learned counsel for the respondents would submit that as per Rule 27 (k) of the Central Motor Vehicles Act 1989, the holder of a driving school license shall not act in a manner calculated to mislead any person making an application to receive instructions from the school or establishment as to his ability to procure a licence for such person other than in accordance with these rules or to connive with any person in acts of commission or omission with a view to circumventing the provisions of this chapter. According to the respondents, as per Rule 8 of the Act, the minimum educational qualifications in respect of applicant for obtaining a licence to drive a transport vehicle shall be a pass in 8th standard. In quite a few cases, the applicants did not possess the said educational qualification. According to the respondents, to overcome the same, the petitioners had enclosed forged educational certificates along with the applications. When the Licensing Authority verified the same with the concerned educational Institutions, he was informed that the certificate filed before the



Licensing Authority was not genuine one. I must record here that the learned counsel for the respondents particularly the second respondent did not speak in the air. On the other hand, he produced solid materials to show that there is considerable substance in the allegations.

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6.It is not in dispute that the Licensing Authority had the power to revoke the driving school licenses issued by him. It is also true that before passing the order of revocation, the Licensing Authority had issued show cause notices. But the question is whether the impugned orders can still be sustained.

7.The petitioner's counsel pointed out that the vigilance complaint was lodged against Mr.Mukkannan on 01.05.2018. The petitioners herein were summoned as witnesses. The petitioners had deposed against the said Mukkannan in the preliminary enquiry conducted by the vigilance police. The Vigilance Police submitted a report against Mukkannan and even though Mukkannan had not been prosecuted in the criminal Court, Disciplinary action under Rule 17 (b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules has been initiated against him. My attention has been drawn to G.O(2D) No.101, Home (Tr.II) Department dated 28.03.2018 issued in this regard. Mukkannan had issued a defamation Notice against Srinivasan on 07.12.2017. A reply was issued by Srinivasan on 17.12.2017.

8.In this background, Mukkannan could not have passed the impugned revocation orders. On the very face of it, the orders are vitiated. Mukkannan has himself given a complaint against the petitioners herein before the local police station and the same was registered as Crime.No.119 of 2017, for the offences under Sections 353 & 506(i) of IPC. Thus, Mukkannan was the Defacto Complainant in Crime No.119 of 2017, and the petitioners herein figure as accused. Likewise, in the vigilance case, Mukkannan was in the dock, while the petitioners herein were the complaining witnesses. This being the state of affairs, Mukkannan could not have decided the issue in an impartial manner. Interestingly, in the impugned orders, Crime No.119 of 2017 has been specifically referred to. Thus, Mukkannan virtually became a judge of his own cause. Noting can be more violative of the principles of natural justice than this.

9.There is an added reason for quashing the order passed in the case of Srinivasan. Mukkannan was transferred vide G.O(D) No.08 Home (Transport-II) Department dated 03.01.2018 with immediate effect. The revocation order against Srinivasan was passed on 04.01.2018 i.e after the issuance of the said G.O, by which he was transferred from Thanjavur to Virudhunagar. Looked at from any angle, the impugned orders of revocation cannot be allowed to stand, they are accordingly quashed.



10. The matter cannot end there. There are *prima facie* materials to justify the initiation of action against the petitioners. Therefore, I hold the show cause notices will very much stand. The petitioners are given five weeks time to submit their explanation in respect to the show cause notices. In the normal course of events, I would have remitted the matter to the file of the first respondent. It is true that Mukkannan is no longer working as Regional Transport Officer, Thanjavur. He is elsewhere. But the incumbent has also strongly supported the stand of Mukkannan. I therefore feel that if the incumbent is directed to decide the issue, the position may not be different. Hence, in the interest of justice, after the explanations are received from the writ petitioners herein, the Regional Transport Officer, Thanjavur/Licensing Authority will forward all the papers to the Appellate Authority. The Appellate Authority will issue hearing notice to the petitioners herein, hear them and pass orders in accordance with law.

11. It is also seen that Mukkannan had given complaints alleging forgery. The jurisdictional police have received the complaints from Mukkannan. A copy of the complaint has also been issued with CSR No.154/2017. The Inspector of Police, Tamil University Police Station, Thanjavur is directed to investigate the said complaint in accordance with law.

12. I make it clear that I have not gone into the merits of the matter. The contentions of the writ petitioners as well as the contentions of Mukkannan are left open. Nothing observed herein will prejudice Mukkannan's defence in the Disciplinary action. Likewise, the petitioners herein also will not be in any way prejudiced by the observations made in favour of Mukkannan in this common order.

13. With these directions and observations, all the three Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (crl side)

// True Copy //

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Regional Transport Officer,
Thanjavur District,
Thanjavur.

2.The Inspector of Police,
Tamil University Police Station,
Thanjavur.

+1 CC to SPL GP (SR-14742[F] dated 24/08/2020)

+3 CC to Mr.R. GANDHI, Advocate (SR-
14583,14582,14580[F] dated 21/08/2020)

+1 CC to Mr.K. RAJKUMAR, Advocate (SR-14574[F]
dated 21/08/2020)

Common order made in
W.P. (MD) Nos.24216 & 24217 of 2017 and 1011 of 2018 and
WMP(MD) Nos.20327, 20328 of 2017 and 1054 of 2018
20.08.2020

VB (03.09.2020) 5P 8C