



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.15150 OF 2021

R.Sundar

...Petitioner

Vs

The Licensing authority cum Regional
Transport Officer,
Regional Transport Office,
Central Zone, Ayanavaram, Chennai-23.

...Respondent

Prayer : Writ petition filed under Section 226 of the Constitution of India to issue a writ of Mandamus directing the respondent to return the petitioner's original Driving Licence, bearing No.TN 01-1983-0005331, which was seized and handed over to respondent's office vide letter dated 20.11.2019 in ref. No.785, by the RTO Office, Gudur, S.P.S.R. Nellre District, Andra Pradesh State, without any endorsement of suspension, by considering his representation dated 18.01.2021, within a time frame, as may be fixed by this court.

For petitioner : Mr.R.Veeramani

For respondent : Mr.M.R.Gokulkrishnan,
Govt. Advocate

ORDER

This writ petition has been filed praying to issue a writ of Mandamus directing the respondent to return the petitioner's original Driving Licence, bearing No.TN 01-1983-0005331, which was seized and handed over to the respondent's office vide letter dated 20.11.2019 in re. N.785, by RTO Office, Gudur, S.P.S.R. Nellre District, Andra Pradesh State, without any endorsement of suspension, by considering his representation dated 18.01.2021, within a time frame, as may be fixed by this court.

2. The contention of the petitioner is that he is a driver in profession and he obtained a badge in LMV driving licence. In connection with a road accident, which took place due to burst of car tyres, FIR has been registered against the petitioner in Crime No.14 of 2019 by Monopli Police Station, Chittoor District and without making any preliminary investigation, his original licence was seized by the police



and it was handed over to the respondent office through the RTO, Gudur, S.P.S.R. Nellore District, Andhra Pradesh vide letter dated 20.11.2019. According to the petitioner, till now, neither show cause notice issued nor enquiry conducted, but his licence continues to be withheld by the respondent. Hence, he made a representation to the respondent dated 19.01.2021 to return his original driving licence. But, so far, it was not considered and licence was not returned. Without license, the petitioner is not able to drive and earn a decent living. Hence this writ petition.

3. The learned counsel appearing for the petitioner relying upon the earlier order passed by this court in W.P.No.5009 of 2019 etc. batch dated 05.03.2019, seeks to pass similar order on the same lines in the present petition also.

4. The learned Standing Counsel appearing for Government would also fairly accede that this court has passed the earlier order dated 05.03.2019 in W.P.No.5009 of 2019 etc. batch in respect of the similar subject matter.

5. In the light of the aforesaid submissions of the learned counsel on either side, this court is inclined to pass an order on the same lines. The relevant portion of the order dated 05.03.2019 passed by this court in W.P.No.5009 of 2019 etc. batch is extracted here under:

" 3. The learned counsel appearing for the petitioners relied upon the earlier decision of the Division Bench of this Court in P.SETHURAM VS. THE LICENSING AUTHORITY, THE REGIONAL TRANSPORT OFFICER, DINDUGAL [2010 WRIT L.R. 100], G.JAYAPRAKASH, SECRETARY, MUTHU NAIDU MEMORIAL HIGH SCHOOL, JAKKARPALAYAM, POLLACHI, COIMBATORE 642 202 VS. THE SECRETARY TO GOVERNMENT, EDUCATION DEPARTMENT, FORT ST. GEORGE, CHENNAI 600 009 AND TWO OTHERS [2010 WRIT L.R. 104] AND N.MAYILSAMY VS. THE INSPECTOR OF POLICE, TRAFFIC INVESTIGATING WING, MADUKKARAI POLICE STATION, COIMBATORE AND ANOTHER [W.P.No.6274 of 2018, dated 20.3.2018]. According to the learned counsel appearing for the petitioner, in the aforesaid decisions, this Court held that Section 19(1) of the Motor Vehicle Act empowers the Licensing Authority to disqualify a person for holding or obtaining any driving license for a specified period or to revoke any such license. Further, it is submitted that the power under Section 19(1) of the Act can be invoked only after providing an opportunity of being heard to the holder of license and for reasons to be recorded in writing. Therefore, the respondent authorities cannot impound or retain driving



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license immediately after the accident. Therefore, this Court directed the authority concerned to return the original driving license to the petitioners therein.

4. In the counter affidavit filed by the first respondent viz., the Transport Commissioner, it is stated as under:

After receipt of original driving licence, the licencing authorities are issuing show cause notice to the holder of driving licence by giving an opportunity of making their explanation as to why the holder of driving licence should not be disqualified from driving, for the stipulated period under the M.V. Act. The holder of the driving licence may submit his explanation and also pray to release the original driving licence. It is submitted that in most of the cases, no satisfactory reasons were given by the holder of the driving licence. It is further submitted that the Hon'ble Apex Court have constituted a Committee on Road Safety in letter F.No.05/2014/CoRS-Part-II dt.18.8.2015. The Committee has directed the States/Union Territories and their departments to suspend the licence for a period of not less than three months under Section 19 of M.V. Act read with Rule 21 of Central Motor Vehicle Rule 1989 for the irregularities as follows:

i) Driving a speed exceeding the specified limit which in the Committee's view would also include red light jumping.

ii) Carrying overload in goods carriages and carrying persons in goods carriages.

iii) Driving vehicles under the influence of drink and drugs.

iv) Using mobile phone while driving a vehicle. With regard to disqualification of the licence under Section 19 of the Act, the licencing authorities have to follow the procedure as contemplated under the Act and pass final order on the disqualification of the driving licence.

5. According to the learned Additional Advocate General appearing on behalf of the respondents, "Licensing Authority means an authority empowered to issue licenses under Chapter II or as the case may be Chapter III as per sub-section 20 of section 2 of Motor Vehicle Act, 1988. "Licensing Authorities means the Regional Transport Officer or the Additional Regional Transport Officer, as the case may be within his jurisdiction, shall be



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the Licensing Authority for issuing Driving Licence. The power exercisable by a police officer under the Act shall also be exercisable by an inspecting officer of the Transport department. As per sub Rule (1) of Rule 3 of Tamil Nadu Motor Vehicle Rules, 1989, the Inspecting Officer of the Transport department not below the rank of Motor vehicle Inspector Grade II and Section 206 of M.V. Act, 1988 empowers the police officials to impound the documents. It is further submitted that Section 206(1) empowers any police officers or other persons authorized by the State Government to impound the driving licences, permits, Certification of Registration, Certificate of Insurance, other documents produced before him by the driver or person incharge of a motor vehicle within the meaning of said section. If the driver of the vehicle has produced a false documents within the meaning of section 464 of I.P.C. shall seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle such mark or document. Section 206(3) of M.V. Act, 1988 stipulates that a Police Officer or other person seizing a licence under sub section 2 of Section 206 shall give to the person surrendering the licence, a temporary acknowledgment therefor and such acknowledgment shall authorize the holder to drive the vehicle until the licence has been returned to him or until such date as may be specified by the Police Officer or any other person in the acknowledgement whoever is earlier.

6. The learned Additional Advocate General would submit that provision under Section 206 of M.V. Act was not brought to the notice of this Court at the time of earlier order passed, either before the Division Bench or before the Single Judge of this Court. According to the learned Additional Advocate General, Section 19(1) of M.V. Act empowers the Licensing Authority to disqualify a person for holding or obtaining any driving license for a specified period or to revoke any such license. It is submitted that the order of disqualification shall be issued by the Licensing Authorities in the format of proceedings by the Licensing Authorities. The copy of the proceedings will be marked to the Police Officer concerned, requesting him to withdraw the authorization issued during the



6. The above said order will hold good for the present Writ petition also. Accordingly, this court directs the respondent to consider the petitioner's representation dated 18.01.201, and pass appropriate orders for issuing temporary acknowledgement as per Section 206(3) of the M.V. Act within a period of four weeks from the date of receipt of a copy of this order.

7. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mst

To

The Licensing authority cum Regional
Transport Officer,
Regional Transport Office,
Central Zone, Ayanavaram,
Chennai-23.

+1cc to the Government Pleader, S.R.No.35545

W.P.No.15150 of 2021

PMK(CO)
RVM(23/08/2021)