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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH., J

W.P.NO.15951 OF 2021 &
W.M.P.NO.16848 OF 2021

T.N.Jai Ganesh

.. Petitioner

Vs

The Licensing Authority
Regional Transport Officer, Tindivanam,
Villupuram District- 604 001.

..Respondent

Prayer :: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified Mandamus to call for the records pertaining to the order dated 12.07.2021, passed by the Respondent in show cause No.TN16/ 2021/ 524 quash the same and consequently direct the Respondent to return forthwith the petitioner original driving license bearing No. Tn- 20 20050004875 without any endorsement and within a specified time as may be fixed by this Honble Court.

For Petitioner : Mr.R.Krishnaswamy
for Mr.Ajay Khose

For Respondent : Mr.A.Selvendiran
Government Advocate

O R D E R

On consent given by either side, the main writ petition itself is taken up for final hearing.

2. The subject matter of challenge in the present writ petition is the impugned order issued by respondent dated 12.07.2021 and for a consequential direction to the respondent to return back the original driving license to the petitioner.

3. The case of the petitioner is that he joined the services of Tamil Nadu State Transport Corporation as a Driver in the year 2015 and his services were made permanent in the year 2017. The petitioner was thereafter posted at Thirutani depot.



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4. On 09.05.2021, when the petitioner was driving the vehicle, there was an accident, as a result of which, a person who was driving the two-wheeler hit the bus and he died on the spot.

5. A complaint came to be given, based on which, an FIR was registered against the petitioner by the Roshanai Police Station in Crime No.273 of 2021 on 10.05.2021 for an offence under Section 279 and 304(A) of IPC. The FIR is pending investigation. In the meantime, the investigation officer had seized the original driving license from the petitioner.

6. The respondent issued a show cause notice to the petitioner on 18.06.2021 and called upon the petitioner to explain as to why his driving license should not be suspended. This show cause notice was purportedly issued under Section 19 of the Tamil Nadu Motor Vehicles Act. The petitioner gave a reply/explanation dated 28.06.2021. On receipt of the same, the impugned order dated 12.07.2021, came to be passed by the respondent. Aggrieved by the same, the present petition has been filed before this Court.

7.. Heard the learned counsel for the petitioner and A.Selvendiran, learned Government counsel appearing on behalf of the respondent.

8. The issue that is involved in the present writ petition is squarely covered by the earlier Division Bench judgement of this Court in the case of [P.Sethuraman Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Officer, Dindigul] in 2010 Writ Law reporter 100 . The relevant portions in the judgement are extracted hereunder :-

5. Section 19(1) of the Motor Vehicles Act, 1988, empowers the Licensing Authority to disqualify a person for holding or obtaining any driving licence for a specified period or to revoke any such licence. Similarly, a Court which convicts a person for an offence under the Act, is empowered by Section 20(1) to disqualify such person from holding a driving licence for a specified period. Section 21 makes a driving licence become suspended, if the holder of the licence had been previously convicted of an offence punishable under Section 184 and a case had been registered against him on the allegation of causing the death or grievous injury to one or more persons by dangerous driving. Section 22 empowers the Court to cancel or suspend the driving licence, upon conviction



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of a person for an offence under Section 184.

8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a driving licence, 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 licence and for reasons to be recorded in writing.

9. But in the case on hand, the licence 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 licence 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, pre-concluded 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 licence cannot be taken to be passed after due application of mind.

9. In the present case, the investigation is admittedly pending. The requirement under Section 19(1) of the Tamil Nadu Motor Vehicles Act, to suspend or revoke a driving license is a conviction in the criminal case. Even otherwise none of the



ingredients as provided under Section 19(1) of the Act, has been satisfied by the impugned order passed by the respondent. The respondent has merely stated in the impugned order that he is convinced that the petitioner has committed an offence and this finding is given when the investigation is pending. That apart, the original license itself was seized only during the course of the investigation.

10. In view of the above discussion, this Court has no hesitation to quash the impugned order dated 12.07.2021 passed by the respondent and accordingly, the same is quashed. There shall be a direction to the respondent to return back the original driving license to the petitioner immediately. The respondent shall await the final orders in the criminal proceedings and if the ingredients as provided under Section 19 of the Tamil Nadu Motor Vehicles Act, is satisfied, it will be left open to the respondent to initiate proceedings for suspension/ revocation of the driving license. This writ petition is accordingly allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rka

To

The Licensing Authority
Regional Transport Officer, Tindivanam,
Villupuram District- 604 001.

+1 cc to M/s.Ajay Khose,Advocate Sr.No 37262

+1 cc to Government Pleader, Sr.No 37728

W.P.No.15951 of 2021 &
W.M.P.No.16848 of 2021

CA (CO)
PM(08/09/2021)