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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.23103 of 2021
& WMP Nos.24346 & 24347 of 2021

P.K.Elavarasu

...Petitioner

-Vs-

The Regional Transport Authority
Office of the Regional Transport Authority
Chennai North West, Chennai-102.

...Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 29.09.2021 passed by the respondent in Che.Mu.Order No.26595/C1/2021 quash the same and consequently direct the respondent to return forthwith the petitioner original driving license bearing No.TN 01 19820000874 without any endorsement.

For Petitioner : Mr.S.Sakthivel
For Respondent : Mr.U.Bharanidharan,
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 petitioner has challenged the impugned order passed by the respondent on 29.09.2021 and for a consequential direction to the respondent to return the original driving license without any endorsement.

3. The petitioner was working as a driver in the Tamil Nadu State Transport Corporation. On 19.08.2021, while he was on duty, an accident took place as a result of which the victim died. A complaint was given by the relative of the victim to the concerned police station and a FIR came to be registered in Crime No.140 of 2021 for offences under Sections 279 and 304A I.P.C., and the petitioner was shown as the accused.



4. In the course of investigation, the police seized the original driving license belonging to the petitioner and handed it over to the respondent. The respondent in turn initiated proceedings under Section 19 of the Motor Vehicles Act read with Rule 21 of the Central Motor Vehicle Rules. A show cause notice was issued on 22.09.2021 and the petitioner gave his reply for the same. Thereafter, the impugned order came to be issued by the respondent by suspending the license for the period from 19.08.2021 to 18.02.2022. Aggrieved by the same, the present writ petition has been filed.

5. The issue involved in the present writ petition is squarely covered by the earlier order in W.P.No.15951 of 2021 dated 02.08.2021 passed by this Court and the relevant portions are extracted hereunder.

" 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 of a person for an offence under Section 184.



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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



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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."

10. In view of the above discussion, this Court has no hesitation to quash the impugned order dated 29.09.2021 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 petitions are closed.

Sd/-

Assistant Registrar(CS III)

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//True Copy//

Sub Assistant Registrar

KST

To

The Regional Transport Authority
Office of the Regional Transport Authority
Chennai North West, Chennai-102.

+1cc to Mr.S.Sakthivel, Advocate, S.R.No.55552

+1cc to the Government Pleader, S.R.No.56174

W.P.No.23103 of 2021

SJ(CO)
KKV/17/11/2021