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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.24538 of 2021

D.Magesh

...Petitioner

Vs

1. Inspector of Police,
Thudiyalur Police Station,
Coimbatore District.

2. The Licensing Authority - cum -
Regional Transport Officer,
Coimbatore North,
Coimbatore.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 2nd respondent herein to return the original driving license (DL.No.TN43 2004 0002685) to the petitioner forthwith.

For Petitioner : Mr.K.Hariharan

For Respondents : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

The prayer sought for herein is a writ of mandamus directing the 2nd respondent herein to return the original driving license (DL.No.TN43 2004 0002685) to the petitioner forthwith.

2. The petitioner was working as a Driver in Tamil Nadu State Transport Corporation at Coimbatore. When he was on duty on 02.10.2021 riding the bus belongs to the Transport Corporation in the route between Mettupalayam and Coimbatore, at a place called Thudiyalur, the vehicle in question driven by the petitioner met with an accident, with a result, one person died.

3. The said fatal accident was reported to the Police and the Police registered a case by registering an F.I.R. in F.I.R.No.1374 of 2021 dated 02.10.2021 for the alleged offence punishable under Section 279 & 304A of I.P.C.



4. Pursuant to the said accident, the driving license of the petitioner was seized by the said Police authorities and has been handed over to the 2nd respondent i.e., the Regional Transport Officer, Coimbatore North, the said license of the petitioner since has been handed over to the 2nd respondent, the petitioner without the license is not able to report duty to the employer thereby his livelihood is affected. Hence, in order to get back the said license, the petitioner had given a representation to the 2nd respondent on 05.10.2021 and the said representation since was not considered and which has been kept pending by the 2nd respondent, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

5. Heard Mr.K.Hariharan, learned counsel appearing for the petitioner, who would submit that, if at all the license was seized by the respondent Police, who registered a case against the petitioner for the alleged accident with the result of that there has been death, the license handed over to the respondents cannot be kept by the 2nd respondent authority endlessly without conducting any enquiry and in this regard, if at all, the alleged offence punishable against the petitioner, for which, the criminal case was registered is to be proved, it will take a long time before the concerned Criminal Court to establish the case on behalf of the prosecution and till such a longer period, it cannot be justified on the part of the Transport Authorities i.e., the Licensing Authorities to retain the driving license of the petitioner thereby the livelihood of the petitioner since is being affected, the petitioner is entitled to get back the said driving license pending enquiry to be conducted in this regard under the provisions of the Motor Vehicles Act as well as the pendency of the criminal case pending on the file of the respondent Police. Therefore, the learned counsel seeks indulgence of this Court to issue a direction to the respondents, especially, the 2nd respondent to return back the driving license of the petitioner forthwith.

6. Heard Mr.E.Vijay Anand, learned Additional Government Pleader appearing for respondents, who would submit that, since it is a fatal accident, pursuant to which, a case has been registered, accordingly, the driving license of the petitioner was seized and handed over to the 2nd respondent/Licensing Authority, it is the duty of the 2nd respondent to conduct an enquiry under Section 19 of the Motor Vehicles Act, 1988 and in this regard, a show cause notice would be given by the Licensing Authority to the petitioner. On receipt of the same, if the petitioner comes forward to give the show cause within a time to be stipulated in this regard, on considering the same, an enquiry would be conducted by giving an opportunity of being heard to the petitioner and thereafter, the Licensing Authority



would decide as to whether the driving license of the petitioner can be returned back or not.

7. When such an exhaustive procedure is contemplated under Section 19 of the Act as well as the relevant Rules made thereunder, the petitioner cannot at this juncture seek for any direction or mandamus from this Court directing the 2nd respondent to forthwith return back the driving license of the petitioner without even progressing the enquiry which has already been contemplated. Therefore, the learned Additional Government Pleader would canvas that, the prayer sought for in this writ petition at this juncture cannot be considered, unless and until, the enquiry is completed in one way or other.

8. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. The issue presently raised in this writ petition is not a new one for this Court as number of such writ petitions have already come. I had some occasions to consider the same plea raised by the persons like the petitioner herein where also those persons were involved in such a fatal accident, those driving licenses of the license holders were seized by the authorities concerned and in those cases also, when they approached the Court of Law, Courts have taken the consistent view that, either the enquiry should be conducted at the earliest under Section 19 of the Act, otherwise, if it is likely to be delayed, as an interim measure, the driving license can be directed to be returned back to the holder of the license.

10. In this context, I have considered a similar issue in W.P.(MD).No.13365 of 2021 where an exhaustive procedure, as has been pointed out by the learned Additional Government Pleader under Section 19 of the Motor Vehicles Act, 1988, has been considered and after considering the same, I passed an order where direction was given to the Licensing Authority to issue a show cause notice by initiating proceedings under Section 19 of the Act to the holder of the license, if not already issued and once such notice is issued within a time frame, the license holder should respond to the said show cause notice and on receipt of reply or show cause from the license holder, enquiry shall be completed at the earliest possible time by giving an opportunity to the license holder and accordingly to decide whether the license holder has violated any of the provisions of the Motor Vehicles Act as well as the Rules made thereunder and if so, what kind of penalty is to be imposed against him can also be decided. In case, the Licensing Authority, after such enquiry, comes to the conclusion that, there has been no violation on the part of the license holder, the license in



question can be returned back to the license holder as for such action, there could be no further impediment.

11. In order to appreciate the said view taken by this Court, the relevant portion of the said order in the aforestated judgment is quoted herein for easy reference.

"8. In respect of these kind of controversy, a number of orders had been passed by this Court where the law had been held that, without having resorted to a limited enquiry to be conducted in this regard and to come to a conclusion that the licence holder has committed any offence or violated any provisions of the Act as well as the rules made thereunder, the licence cannot be retained or revoked or the holder of the licence cannot be disqualified.

9. In this context, Section 19 of the Motor Vehicles Act reads thus:

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 he - (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



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(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 -

(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 ; or

(ii) revoke any such licence.

(2) Where an order under sub-section (1) is made, the holder of a driving licence shall forthwith surrender his driving licence to the licensing authority making the order, if the driving licence has not already been surrendered, and the licensing authority shall, -

(a) if the driving licence is a driving licence issued under this Act, keep it until the disqualification has expired or has been removed ; or

(b) if it is not a driving licence issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which it was issued ; or

(c) in the case of revocation of any licence, endorse the revocation upon it and if it is not the authority which issued the same, intimate the fact of revocation to the authority which issued that licence:

Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order, made under subsection (1), disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.

(3) Any person aggrieved by an order made by a licensing authority under sub-section (1) may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either party if so required by that party and may pass



such order as it thinks fit and an order passed by any such appellate authority shall be final."

10.If we look at the provisions of Section 19 of the Act, it makes it clear that, if it is satisfied after giving the holder of the licence, an opportunity of being heard, if he has committed any offence or has made any violation, the licensing authority, for the reasons to be recorded in writing, can make an order disqualifying the person for a specified period for holding or obtaining any driving licence to drive any class or description of vehicle specified in the licence or revoke any such licence.

11.That apart, Sub~Section 1 (A) of Section 19 was recently inserted by Motor Vehicles Amendment Act, 2019 (Act 32 of 2019), which came into effect from 19.08.2019 under which, if a licence has been forwarded to the licensing authority under Sub~Section 4 of Section 206, the licensing authority if satisfied after giving holder of the driving licence, an opportunity of being heard may either discharge the holder of the driving licence or it may have detailed reasons recorded in writing make an order disqualifying such persons from holding or obtaining any licence all or any of the class or description of vehicle. For the first offence, such punishment shall be for a period of three months and for second and subsequent offence, the revocation shall be the penalty.

12.These are all the procedures contemplated under Section 19 of the Motor Vehicles Act.

13.Since the statutory duty cast upon the licensing authority that is the respondent herein, he has initiated such proceedings by issuing show cause notice on 19.07.2021 seeking show cause from the petitioner which had been properly responded by the petitioner by giving reply dated 20.07.2021. Now, the ball is in the Court of the respondent so as to immediately conduct an enquiry, of course a limited enquiry, to verify as to whether the petitioner had violated any provisions of the Act as well as the rules made thereunder or any other punishable offences have been committed by him.

14.In this context, it is to be reminded that, merely because a fatal accident had been reported where the vehicle driven by the petitioner is



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(i) There shall be a direction to the 2nd respondent to initiate proceedings / enquiry under Section 19 of the Motor Vehicles Act, 1988 by issuing a show cause notice to the petitioner within one week from the date of receipt of a copy of this order. On receipt of such show cause notice, it is open to the petitioner to respond by giving show cause within one week thereafter and on receipt of the reply from the petitioner, the 2nd respondent shall complete the enquiry by giving an opportunity of being heard to the petitioner and pass necessary orders in that regard within a period of four weeks thereafter.

(ii) It is made clear that, depending upon the outcome of such enquiry, the decision as to whether the license can be returned back or not can be decided and accordingly, the decision can be communicated to the petitioner forthwith.

13. With these directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Inspector of Police,
Thudiyalur Police Station,
Coimbatore District.
2. The Licensing Authority - cum -
Regional Transport Officer,
Coimbatore North, Coimbatore.

+1cc to the Government Pleader, S.R.No.60640

W.P.No.24538 of 2021

RP[co]
NSK 30/11/2021