



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6973 of 2021

and

W.M.P.(MD)No.5361 of 2021

M.Rajendran

... Petitioner

-Vs-

The Regional Transport Officer,
The Regional Transport Office,
Theni.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to return the petitioner's original driving license within a time limit that may be fixed by this Court.

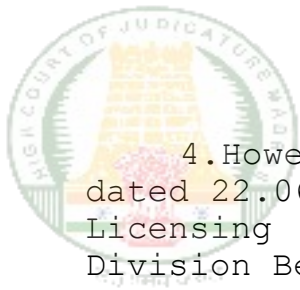
For Petitioner	: Mr.X.Sumalatha for Mr.G.M.Xavier
For Respondent	: Mrs.M.Rajeswari Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is employed as driver in TNSTC (Madurai) Limited at its Periyakulam Branch. He was driving the vehicle bearing Registration No.TN 57 N 2233 on 05.02.2021. When it got involved in fatal accident, Crime No.57 of 2021 was registered on the file of the Thenkarai Police Station for the offences under Sections 279, 337 and 304(A) of IPC. Thereafter, the petitioner's original driving license was also impounded. The respondent issued show cause notice on 22.02.2021. The petitioner has lodged his reply on 04.03.2021. It is stated that the final order is yet to be passed. Seeking its return, the writ petition has been filed.

3.The learned Government Advocate submitted that the petitioner can as well wait till passing of the final order and that filing of the writ petition at this stage is premature.



4.However, the issue on hand is squarely covered by the order dated 22.06.2009 made in W.A.(MD)No.175 of 2009 (S.Murugesan Vs. The Licensing Authority/Regional Transport Officer). The Hon'ble Division Bench held as follows:-

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5.Therefore the question that falls for consideration in this appeal is as to whether the respondent has a power to impound the driving license of a person involved in a road traffic accident.

6.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 license. 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 license for a specified period. Section 21 makes a driving license become suspended, if the holder of the license 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 of 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.

7.Obviously, Sections 20 and 22 are not applicable to the case on hand, since the action impugned in the writ petition did not arise out of the disqualification ordered by a Court. There is no allegation that the appellant was previously convicted for an offence under Section 184. Therefore, Section 21 also has no application to the case on hand. Consequently, the only provision to which the respondent could resort to, is Section 19.

8.Section 19 of the Motor Vehicles Act, 1988, reads as follows:-

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

(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



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.

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9. A bare reading of Section 19(1) shows that the licensing Authority has the power to revoke any license or disqualify a person for a specified period from holding or obtaining a driving license, 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.

10. But in the case on hand, the licence of the appellant has been impounded or retained by the respondent, immediately after the accident on 18.03.2020. Admittedly, the show cause notice was issued only on 28.04.2009. Therefore, it is clear that the driving licence was retained, both without an order in writing and without affording an opportunity of being heard to the appellant. This is a clear violation of the provisions of the Statute and hence the order of the learned Judge, dismissing the writ petition deserves to be set aside.

11. Accordingly, the Writ Appeal is allowed. The order of the learned Judge is set aside and the Writ Petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not preclude the respondent from proceeding further with the proceedings already initiated, if any of the contingencies specified in Clauses (a) to (h) of Section 19(i) of the Act, has arisen or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated."

5. Since the case on hand is squarely covered by the aforesaid decision, I direct the respondent to return the petition mentioned driving license to the petitioner forthwith and without any delay.

6. The Writ Petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

To

The Regional Transport Officer,
The Regional Transport Office,
Theni.

+1 CC to M/s.SPL GP (SR-14085[F] dated 29/03/2021)

+1 CC to M/s.G.M.XAVIER, Advocate (SR-14175[F] dated 29/03/2021)

W.P. (MD)No.6973 of 2021
26.03.2021

TP (CO)

TR(30.03.2021) 5P 4C