



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.06.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.10191 of 2021

and

W.M.P (MD)No.7898 of 2021

WEB COPY

V.Palanikumar

... Petitioner

Vs.

The Regional Transport Officer,
The Regional Transport Office,
Visuvasa Puram,
Nagercoil,
Kanyakumari District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of 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.G.M.Xavier

For Respondent

: Mr.P.ThilakKumar

Standing Counsel

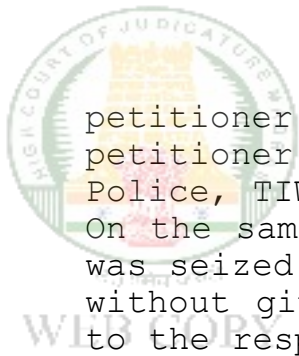
Government of Tamil Nadu

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, to direct the respondent to return the petitioner's original driving license.

2. Heard the learned counsel appearing for the petitioner and perused the materials available on record. The Writ Petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that the petitioner is employed as driver in Tamil Nadu State Transport Corporation (Madurai) Limited at its Colachel Branch. On 07.04.2021, the petitioner was assigned with the duty of driving passenger transport bus, bearing Registration No.TN-74-N-1704, in Route No.5B.V fast. While the bus driven by the petitioner proceeding towards Terik Junction at a place called Nadukattu Easakkiamman Kovil Pirivu, at about 2.30 p.m., at that time, a two wheeler, bearing Registration No.TN-74-AK-0063 came from the left and at that time, a car came from Sub Road to main road, dashed against the two wheeler and the two wheeler rider fell down and have sustained injuries. Later, he came to know that the two wheeler rider one Dr.Stella Jannet died while taking treatment at Asaripallam Government Hospital. Subsequently, an FIR was registered in Cr.No.38 of 2021 on the file of the TIW Nagercoil Police Station, for the offence under Sections 279 and 338 of IPC., and the



petitioner was made as an accused. Further, on 07.04.2021, the petitioner was directed to be present before the Inspector of Police, TIW Nagercoil Police Station, with original driving license. On the same day, his driving license, bearing No.TN 74 1991 0003090 was seized by the Inspector of Police, TIW Nagercoil Police Station, without giving any show-cause notice and the same was handed over to the respondent, for the purpose of taking action under Section 19 (1) of Motor Vehicles Act.

4. The learned counsel appearing for the petitioner would submit that 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)*** wherein, this Court has held as follows:-

"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 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.

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.As rightly pointed out the learned counsel for the petitioner, the case on hand is squarely covered by the aforesaid decision. Therefore, this Court directs the respondent to return the driving license, bearing No.TN 74 1991 0003090, to the petitioner forthwith.

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

Sd/-

Assistant Registrar (CS-I)

// 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,
Visuvasa Puram,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-19588[F] dated 18/06/2021)

+1 CC to M/s.SPL GP (SR-19649[F] dated 18/06/2021)

W.P (MD) No.10191 of 2021
17.06.2021

KB(25.06.2021) 5P 4C