



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.06.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.10463 of 2021

and

W.M.P (MD)Nos.8136 & 8137 of 2021

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C.Chellathurai

... Petitioner

Vs.

1.The Regional Transport Officer,
Regional Transport Office,
Collectorate Complex,
Chettinayakkanpatti Post,
Thadikombu Road,
Dindigul - 624 004.

2.The Inspector of Police,
Dindigul Town North Police Station,
Dindigul.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 1st respondent vide his proceedings in Show Cause No.TN57/2021/409, dated 10.06.2021 and to quash the same as illegal and consequently, directing the 1st respondent to return the petitioner's original Driving Licence, bearing No.D.L.TN57 20010001204, to the petitioner forthwith.

For Petitioner : Mr.S.Prasanth

For Respondents : Mr.P.Thilakkumar
Govt.Advocate

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 1st respondent vide his proceedings in Show Cause No.TN57/2021/409, dated 10.06.2021 and to quash the same as illegal and consequently, direct the 1st respondent to return the petitioner's original Driving Licence, bearing No.D.L.TN57 20010001204, to the petitioner forthwith.



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

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3. The case of the petitioner is that the petitioner is employed as driver in Tamil Nadu State Transport Corporation Ltd., Dindigul Division, Madrai Region, Dindigul-II Branch. On 22.04.2021, the petitioner was assigned with the duty of driving passenger transport bus, bearing Registration No.TN-57-N-1935. When the bus driven by the petitioner was proceeding from Dindigul at about 4.45 p.m., at Natham to Dindigul Road, near Muthuchamy Tank, a two-wheeler, bearing Registration No.TN-57-AK-3160 suddenly dashed on the bus and caused accident and in the said accident one person died on the spot. Pursuant to which, an FIR was registered in Crime No.336 of 2021, dated 22.04.2021, for the alleged offence under Sections 279 and 304-A of IPC., by the 2nd respondent Police. Further, the 1st respondent has issued a show cause notice, dated 23.04.2021 to the petitioner for explanation about the said accident and accordingly, the petitioner approached in person and submitted a representation, dated 28.04.2021 with an explanation and requesting to return his original driving licence. Subsequently, the 1st respondent passed an impugned order vide his proceedings in show-cause No.TN-57/2021/409, dated 10.06.2021, suspending the petitioner licence for the period from 22.04.2021 to 21.07.2021. Hence, the petitioner is before this Court for the aforesaid relief.

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 -



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(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 applicant 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 28.04.2020. 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.D.L.TN57 20010001204, to the petitioner forthwith.

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

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

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

1.The Regional Transport Officer,
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Collectorate Complex,
Chettinayakkanpatti Post,
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Dindigul - 624 004.

2.The Inspector of Police,
Dindigul Town North Police Station,
Dindigul.

+1 CC to M/s.SPL GP (SR-20180[F] dated 24/06/2021)

W.P (MD) No.10463 of 2021
23.06.2021

PM(CO)
TR(30.06.2021) 6P 4C