



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **26.07.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.12609 of 2021

Manikandan,

... Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Aruppukottai,
Viruthunagar 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 issue the badge license to the petitioner by entertaining the petitioner's online application vide No.4593592219, dated 09.12.2019.

For Petitioner

: Mr.D.S.Haroon Rasheed

For Respondent

: Mr.S.Shanmugavel

Govt.Advocate

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, to direct the respondent to issue the badge license to the petitioner, by entertaining the petitioner's online application vide No.4593592219, dated 09.12.2019.

2. Mr.S.Shanmugavel, learned Government Advocate takes notice for the respondent.

3. By consent of both sides, this writ petition is taken up for final disposal, at the admission stage itself.

4. The case of the petitioner is that the petitioner had an earth moving equipment vehicle JCB, bearing Registration No.TN-67-BY-1825. The petitioner on 09.12.2019, had applied for a badge licence, before the respondent, for authorization to drive a transport vehicle within the State of Tamil Nadu. Thereafter, the petitioner paid requisite fee for police verification. The petitioner have an experience in driving the motor vehicle for a period of 11 years and holding LMV license, issued by the RDO, Sivagangai, vide No.TN 63 20080001143.

5. It is the further case of the petitioner that on 04.02.2019, as against the petitioner, a case in Crime No.39 of 2019, on the file of Thiruchuli Police Station, Viruthunagar District, has been registered for the offence under Section 379 IPC r/w. Section 21(1) of Mines and Minerals (Development and



Regulation) Act, 1957. Due to the pendency of the said criminal case, the respondent orally denied to issue the badge license to the petitioner, by stating that as per Section 8 of the Tamil Nadu Motor Vehicle Rules, 1989, the petitioner is not entitled to badge licence.

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6. The learned counsel appearing for the petitioner would submit that pending FIR is not a bar for issuance of the badge license. Petitioner is not a convict person. Moreover, the petitioner's application neither rejected nor admitted by the respondent from the date of application. Instead of considering the online application of the petitioner, dated 09.12,2019, without any basis, the respondent orally intimated that the petitioner is not entitled for badge licence and the act of the respondent is illegal and against the law. He would further submit that in similar circumstances, this Court in W.P.(MD)No.13754 of 2020, dated 06.10.2020, while quashing the impugned proceedings of the respondents, directed to consider the application of the petitioner.

7. The learned Government Advocate appearing for the respondent would state that as per Rule 8 of Tamil Nadu Motor Vehicles Rules, 1989, the respondent, on receipt of an application for issuance of a driving license, may make such enquiries, as may be reasonably necessary to establish the identity of the applicant and to ascertain that the applicant is not disqualified or liable to be disqualified for holding a driving license. According to him, the respondent made enquiries as per Rule 8 of Tamil Nadu Motor Vehicles Rules, 1989 and found that an F.I.R., has been registered against the petitioner in respect of the alleged criminal offences. According to him, only for the aforementioned reasons, the petitioner has not been issued with badge license for driving transport vehicles.

8. This Court heard the submissions made by the learned counsels appearing on either side and perused the materials available on record, including Rule 8 of Tamil Nadu Motor Vehicles Rules, 1989.

9. As seen from Rule 8 of the aforesaid Rules, only persons who are disqualified or liable to be disqualified cannot be issued with a driving license. In the case on hand, a criminal case has been registered against the petitioner, not involving the vehicle and further the petitioner has not been convicted of the alleged offences. Admittedly, the petitioner is in possession of a valid LMV driving license. The Motor Vehicles Act and its Rules does not bar an applicant from obtaining a driving license, if any criminal case is pending against the said applicant.

10. In the case on hand also, only the First Information Report has been registered against the petitioner and the petitioner is not



obtaining badge license on 09.12.2019. Admittedly, no final orders have been passed by the respondent, with regard to the said application, but allegedly the petitioner was intimated orally that he is not entitled to get a badge endorsement in his driving license. But, it does not refer to the application dated 09.12.2019, submitted by the petitioner, seeking for badge endorsement in his driving license. Accordingly, the application, dated 09.12.2019 submitted by the petitioner for badge driving license, shall be considered by the respondent on merits and in accordance with the statutory provisions provided for under the Motor Vehicles Act, 1988 and the corresponding Rules, within a period of eight weeks from the date of receipt of a copy of this order.

11. With the aforesaid direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (W)

// 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
The Regional Transport Officer,
Regional Transport Office,
Aruppukottai,
Viruthunagar District.

+1 CC to M/s.SPL GP (SR-24015[F] dated 27/07/2021)

+1 CC to M/s.D.S.HAROON RASHEED, Advocate (SR-24125[F] dated 28/07/2021)

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CM(CO)
KB(05.08.2021) 3P 4C