



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2021**

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.13365 of 2021
(through video conference)

R.Karuppanan

... Petitioner

-Vs-

The Regional Transport Officer,
The Regional Transport Office,
Dindigul.

... Respondent

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

For Petitioner	: Mr.S.Arunachalam for M/s.G.M.Xavier
For R-1	: Mr.D.Gandhiraj Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondent to return the petitioner's original driving licence within a time limit that may be fixed by this Court.

2. There had been a fatal accident on 07.07.2021 involving the bus bearing Registration No.TN 57 N 2012 driven by the petitioner at Paraipatti, in the afternoon between 03.15 p.m., and 03.30 p.m. Pursuant to the said fatal accident, it seems that a case has been registered by the concerned police and the driving licence of the petitioner has been seized by the police concerned and forwarded to the respondent, Regional Transport Officer, for further action under the provisions of the Motor Vehicles Act, 1988 [hereinafter referred to as "the Act" for short].

3. In pursuance of the same, the respondent issued a show cause notice on 19.07.2021 to the petitioner invoking the provision that is under Section 19 of the Act seeking show cause from the petitioner within a timeframe. Pursuant to the said show cause notice, the petitioner also had given reply on 20.07.2021. However, even after the reply given by the petitioner, it is the case of the petitioner that the respondent neither conducted enquiry and passed orders under Section 19 of the Act as initiated by them



through the said show cause notice dated 19.07.2021, nor they have released or returned the driving licence in original of the petitioner seized and kept by the respondent. Therefore, the petitioner has approached this Court by filing the present writ petition.

WEB COPY

4. Heard Mr.S.Arunachalam, learned counsel for the petitioner, who would submit that, if at all any proceedings is initiated under Section 19 of the Act by issuance of show cause notice and after getting reply from the person against whom the show cause notice is issued, enquiry should be conducted as to whether any violation had been taken place in this regard by the licence holder and accordingly, order should be passed. However, without conducting an enquiry and without concluding the Section 19 proceedings, the licence in original of the person concerned cannot be retained endlessly by the respondent and the respondent does not have this power. This has also been reiterated in a number of judgments of this Court. Therefore, relying upon those judgments, the learned counsel seeks indulgence of this Court to give a direction to the release of the driving licence of the petitioner by the respondent immediately.

5. I have heard the learned Government Advocate for the respondent, who would submit that, under Section 19 of the Act, the power of licensing authority to disqualify any person from holding a driving licence or revoke such licence, has been contemplated. In the said section, various circumstances have been mentioned, under which, the licence of the licence holder can be retained or suspended for sometime as a punishment to be awarded in this regard, after conducting enquiry. In this context, in order to have a limited enquiry and take a decision whether any violation has been taken place in this regard on the part of the petitioner/licence holder, the proceedings was initiated and show cause notice was issued, which is a pre-requisite to conduct an enquiry.

6. Pursuant to the show cause notice, the petitioner seems to have given a reply on 20.07.2021 and based on such reply, certainly the respondent would conduct a limited enquiry and pass order as to whether any violation has been committed by the petitioner or any offence has been committed by the petitioner and after ascertaining the same, final orders would be passed under Section 19 of the Act either to disqualify him from holding the licence or to revoke the licence or otherwise. If any such decision is taken, accordingly the licence of the petitioner either would be suspended or revoked or would be given back to the petitioner, depending upon the outcome of the enquiry to be conducted by the respondent in this regard. Therefore, quoting the aforesaid proceedings, the learned Government Advocate appearing for the respondent seeks indulgence of this court to give reasonable time to the respondent to complete the enquiry and pass final orders.



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

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

(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

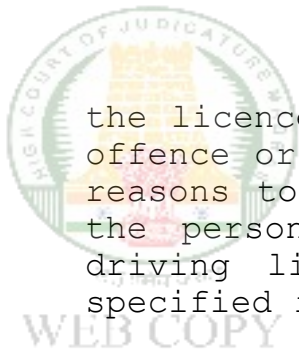
(b) if it is not a driving licence issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which it was issued ; or

(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
<https://hcservices.ecourts.gov.in/hcservices/>



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 involved, it cannot be presumed that the petitioner has committed a punishable offence as that has to be decided only by the competent Court, where a case would be conducted by the concerned police. However, at this juncture, a limited enquiry can be undertaken by the respondent only to verify whether any provisions of the Act as well as the rules made thereunder had been violated by the petitioner. Only for the said purpose, enquiry as contemplated under Section 19 of the Act can go on and after completing such enquiry, if the respondent comes to a conclusion that none of the provisions of the Act as well as the rules has been violated, it is open to the respondent to release the licence to the petitioner. Therefore, after adopting this procedure as has been contemplated under Section 19 of the Act, needful can be done and the final order in this regard shall be passed by the respondent within a timeframe to be fixed by this Court.



15. In that view of the matter, this Writ Petition is disposed of with the following order:-

that there shall be a direction to the respondent to consider the reply given by the petitioner dated 20.07.2021, pursuant to the show cause notice dated 19.07.2021 issued by the respondent and in this regard, after giving a notice, conduct a personal enquiry and thereafter final order shall be passed by taking into account the aforesaid observations made in this order and such final order shall be passed within a period of thirty days from the date of receipt of a copy of this order.

16. It is needless to mention that, depending upon the outcome of the final order to be passed, as indicated above, by the respondent, the petitioner shall work out his remedy accordingly. It is also needless to mention that once notice is issued, the petitioner shall cooperate and appear before the respondent for completing the enquiry as indicated above.

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

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sm

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, Dindigul.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-25211[F] dated 04/08/2021)
+1 CC to M/s.GP (SR-25351[F] dated 05/08/2021)

Order made in
W.P. (MD) No.13365 of 2021
Dated: **04.08.2021**

smv (CO)

TR(05.08.2021) 6P 4C

<https://hcservices.ecourts.gov.in/hcservices/>