



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.8328 of 2019

and

WMP (MD) Nos.6517 & 6518 of 2019

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Naagai Mavatta Oottunar Payirchipalli

Urimaiyalargal Sangam,

(Reg.No.83 of 2007)

Represented by its President V.Ramasamy

... Petitioner

Vs.

1.The Transport Commissioner,

Department of Transport,

Chepaukkam, Chennai - 600 005.

2.The Deputy Transport Commissioner,

No.8, Abdul Khabarkhan Street,

Chinnachokkikulam, Madurai.

3.The Deputy Transport Commissioner,

1st Cross Street, Nirmala Nagar, Thanjavur.

4.The Regional Transport Officer,

Madurai North, Melur Road, Madurai - 625 007.

5.The Regional Transport Officer,

Coimbatore Nagapattinam Highway,

Thanjavur - 613005.

6.The Regional Transport Officer,

44, Vellal Agaram, Pombokar Road,

Mayiladuthurai - 609 001.

...Respondents

Prayer : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned circular issued by the 1st respondent in R.No.40809/S4/2009 dated 07.02.2019 and quash the same and directing the respondents to adhere to Section 8(1) (i) (ii) and Section 9(1) (i) (ii) of Motor Vehicles Act, 1988 in issuing driving license on application made by the ~~every~~ ^{every} ~~schools~~ ^{schools} of the petitioner association.

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For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.M.Rajeswari
Government Advocate

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O R D E R

Heard the learned counsel on either side and the learned Government counsel appearing for the respondents.

2.The petitioner challenges the impugned circular issued by the Transport Commissioner. The impugned circular reads as follows :

"According to Rule 16(2) of CMVR, 1989, a Form 7 has been prescribed for the issuance of Smart Card based Driving License. Moreover as per SCOSTA Standard and as confirmed in the Form 7, only current address will be printed in the Smart Card. The current address can only be the residing address of the applicant.

Current address has to be considered only as "Residing address" of the applicant. All the Licensing Authorities and Assistant Licensing Authorities at RTOs and Unit Offices are strictly instructed, not to entertain any proof other than the proof specified in Rule 4 of CMVR, 1989 including a notarized affidavit of the applicant (Office address, School, College, Company, Factories where working or studying will not comes under the categories of residence)."

3.The learned counsel for the petitioner contends that the impugned circular runs counter to the order dated 03.10.2002 passed in WP No.17951 of 1999. He would also contend that it is violative of the some of the statutory provisions set out in the Motor Vehicles Act, 1988.

4.The respondents controvert the stand taken by the petitioner. A detailed counter affidavit has been filed. The learned Government Advocate took me through the relevant contents of the counter affidavit and called upon me to dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. The impugned circular merely instructs the licensing authorities not to entertain any proof other than the proof specified in Rule 4 of Central Motor Vehicles Rules, 1989. Rule 4 of the Central Motor Vehicles Rules, 1989 reads as follows :

"4.Evidence as to the correctness of address and age.-Every applicant for the issue of a licence under this Chapter shall produce as evidence of his address and age, any one or more of the following documents in original or relevant extracts thereof duly attested by a gazette officer of the Central Government or of a State (Government or an officer of a local body who is



equivalent in rank to a gazette officer of the government or Village Administration Officer or Municipal Corporation Councillor or Panchayat President, namely, -

1. Ration card,
2. Electoral roll,
3. Life insurance policy,
4. Passport,
5. Electricity or telephone bill,
6. Pay Slip issued by any office of the Central Government or State Government or a local body;
7. House tax receipt,
8. School certificate,
9. Birth certificate,
10. Certificate granted by a registered medical practitioner not below the rank of a civil surgeon, as to the age of the applicant:"

Rule 16(2) of the Rule is also relevant. It reads as under :

"16. Form of driving licence.-

(1) Every driving licence issued or renewed by a licensing authority shall be in Form 6.

(2) Where the licensing authority has the necessary apparatus, for the issue of a laminated card type or Smart Card type driving licence, such card type or Smart Card type driving licence, as may be specified in the Notification issued by the concerned State Government or Union Territory Administration, shall be in Form 7.

(3) On and from the date of commencement of this sub-rule, every driving licence issued or renewed by the licensing authority shall be in Form 7.

(4) Every International Driving Permit issued by a licensing authority shall be in Form 6-A and shall be valid for a period of not more than one year from the date of issue, as the case may be, or till the validity of the driving licence, whichever is earlier.

(5) The automobile associations authorised by the State Government/Union Territory Administration shall be allowed to issue International Driving Permit to their own members as also others subject to counter-signature by competent authority.

(6) Every driving license issued or renewed by a licensing authority to drive an E-rickshaw or E-cart shall valid for a period of not more than three years from the date of issue, as the case may be, or till the validity of the driving license, whichever is earlier."



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Since the driving license must be in Form-7, it is relevant to extract Form-7 also. It is as follows :

FORM 7
[See Rule 16(2)]
Form for Driving Licence (Laminated / Smart Card Type)
VISUAL INSPECTION ZONE

Driving Licence No.
Date of Issue

Passport size
Photograph

Valid till (Non-Transport) Valid till (Transport)
Name (Surname) (Given name) (Middle name)
Son / Daughter / Wife of
(Surname) (Given name) (Middle name)
Address (Current)
Citizenship
Date of Birth (Date) (Month) (Year)
Authorisation of drive the following vehicle class throughout India :
(i) Class of vehicle
(ii) Issue date (dd-mm-yyyy)
Badge Number
Blood Group and Rh factor of the driver
Specimen Signature / thumb impression of the licence holder
Signature of the Issuing Authority
Identification of Issuing Authority

Note — The provision for security features like the ghost image and / or the hologram would be provided in the Visual Inspection Zone of the Licence by the concerned State Government. Card serial number will be printed by card manufacturer on the back side upper left corner of the card.

MACHINE READABLE ZONE

The concerned State Governments will provide the following features in the licence, in Machine Readable Zone.

Chip Serial Number
Driver Licence No.
Date of Issue
Valid till (Non-Transport) Valid till (Transport)
Name (Surname) (Given name) (Middle name)
Son / Daughter / Wife of
(Surname) (Given name) (Middle name)



CENTRAL MOTOR VEHICLES RULES

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Citizenship			
Date of Birth (dd-mm-yyyy)			
Class of vehicle			
Respective Date of Issue			
Short name of the Authority conducted Driving .....	.....	.....	.....
Test for respective class of vehicle as above .....	.....	.....	.....
Designation of the Authority conducted Driving .....	.....	.....	.....
Test for respective class of vehicle as above .....	.....	.....	.....
Identification of Issuing Authority .....	.....	.....	.....
Endorsement details (Provision will be made to accommodate the details of 10 Endorsements with following details)			
• Endorsement / Challan Number			
• Endorsement / Challan Date			
• ID Code of Authority of Endorsement			
• Section / Rule / Proceeding No. (Provision for 10 Sections / Rules)			
• Fine			
• Disqualification Period from (dd-mm-yyyy)			
• Disqualification Period to (dd-mm-yyyy)			
• Settlement / Review Date (dd-mm-yyyy)			
• Settlement / Review Authority ID			
• Authorisation to drive E-rickshaw or E-cart in (specify areas or routes).			
Badge Details			
• Badge Number			
• Valid till			
• Authorisation Number			
• Authorisation Date			

6.A mere look at the foregoing would indicate that the applicant is obliged to furnish his current address. The circular merely reiterates the statutory position and nothing else. The grievance of the petitioner is that in such a case, several driving license schools may not be able to offer their services if the applicant hails from some other locality. This apprehension appears to be unreasonable. The order dated 03.10.2002 made in WP No.17951 of 1999 takes care of such situation. In the said order, it was held as follows :

"10.... In view of the above clarification that any person can go to any driving school for the purpose of learning driving and thereafter he can file an application before the licensing authority either in accordance with Section 9(1)(i) or 9(1)(ii) of the Act, the question of giving temporary address recedes into background and even if a person is a permanent resident or temporary resident of some other area, if he has undergone training in a recognised driving school within a particular area, he can file the application before the licensing authority of such later area and his application cannot be rejected merely because his permanent residence or temporary address are of a different place."

7. In the counter affidavit also in Paragraph No.9, it has been
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stated as follows :

"It is submitted that the averments made in para 7 is not correct. The circular issued by the first respondent is statutory and within the scope of Motor Vehicles Act and Rules. The petitioner did not give any specific precedent in which refusal order was issued by the licensing authority for the reason that the permanent address proof of the application for grant of learners license or driving license is in other area and the applicant has taken training at the petitioner's driving school. The intention of the petitioner is to enter the driving school name on the driving license and use such driving license for the advertisement of the driving school. Driving license is an important statutory document of every citizen. It can be used as an identification document of a person in Central and State Government departments. If it is allowed to enter the driving school address or any temporary address on the driving license may cause non identification of a license holder who doing illegal activity by producing driving license is as an address proof."

The petitioner has not been able to demonstrate any illegality in the impugned circular. I find no ground to grant relief.

8.The writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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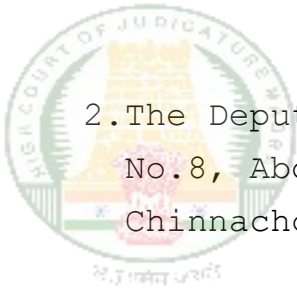
Sub Assistant Registrar(CS)

skm

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 Transport Commissioner,
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+1 CC to M/s.K.K.KANNAN, Advocate (SR-6456[F] dated 22/02/2021)

+1 CC to M/s.SPL GP (SR-6465[F] dated 22/02/2021)

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MJ (CO)

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