



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.15650 of 2021

(Through Video Conference)

P.Murugesan

.. Petitioner

-Vs-

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

..Respondent

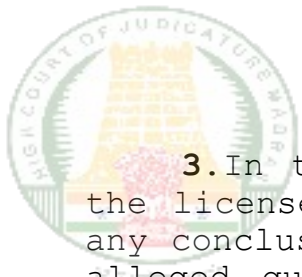
Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondent to return the petitioner's original driving license within a time limit that may be fixed by this Court.

For Petitioner	: Mr.G.M.Xavier
For Respondent	: Mr.D.Ghandiraj Government Advocate

ORDER

Prayer sought for herein is for 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.

2.That the petitioner was driving a passenger bus on 25.07.2021 bearing Registration No.TN-57-N-2046. His trip was started at about 7.10 p.m. at Dindigul bus stand and proceeding towards Nilakottai, at about 8.00 p.m. at Micheal Palayam bus stop, according to the petitioner, after seeing the two wheeler rider came from the opposite direction, he stopped the bus, however, the two wheeler bearing its Registration No.TN-57-AY-0385, came from the opposite direction, without noticing the petitioner and without following the traffic rules and without wearing helmet, dashed against the rear right side of the bus driven by the petitioner. Therefore, there was an accident and in this regard, an FIR was registered at Nilakkotai Police Station in Crime No.643 of 2021, where the petitioner was made an accused for the offences punishable under Sections 279, 337 and 304(A) of IPC. On the same day, the driving license of the petitioner was seized by the Inspector of Police, Nilakottai Police Station, and the same was handed over to the respondent for the purpose of taking action against the petitioner under Section 19(1) of the Motor Vehicles Act.



3. In this context, it is the grievance of the petitioner that the license of the petitioner ought not to have been seized before any conclusive decision has come from the criminal Court, as to the alleged guilty on the part of the petitioner with regard to the accident, that has taken place on the other day.

4. Therefore, in order to get back the license, which was seized and handed over to the respondent by the police, the petitioner had given a representation on 09.08.2021, before which, on 02.08.2021, the respondent had issued a show cause notice to appear before the respondent within 7 days and to give his explanation, as to why his license shall not be cancelled for a while.

5. Only in response to the same, that the petitioner had appeared and given his reply and representation on 09.08.2021, where, he has sought for to drop the proceedings initiated by the respondent under Section 19 of the Motor Vehicles Act, and to return back the license of the petitioner. Since the same has not been considered and the license, so far, has not been returned to the petitioner, he approached this Court by filing this writ petition with the aforesaid prayer.

6. Heard Mr.G.M.Xavier, learned counsel for the petitioner, who, having reiterated the afore said facts, seeks indulgence of this Court to issue a direction to the respondent to consider his request, dated 09.08.2021, and to pass orders with regard to the plea of the petitioner to return back the license of the petitioner, within a time frame.

7. Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondent, who would submit that, once the license is seized by the police and handed over to the Transport authorities, that is, the respondent, under Section 19 of the Motor Vehicles Act, enquiry has to be conducted, therefore, a show cause notice has been issued, instead of appearing before the respondent to give reply to the show cause notice, since the petitioner has given the representation on 09.08.2021, even therein, there has been no plea on the part of the petitioner to get back the license, except to state that, the charge memo or charge sheet or charge note against the petitioner has to be dropped.

8. Be that as it may, Mr.D.Ghandiraj, learned Government Advocate would further submit that, if the petitioner is ready and willing to give any reply to the show cause notice, that has already been issued on 02.08.2021 to the petitioner, on considering the same as contemplated under Section 19 of the Act, the enquiry initiated under the said Section would be concluded by the respondent, and a decision would be taken and communicated to the petitioner, whether he is entitled to get back the license or not, and this can be



concluded depending upon the petitioner's cooperation to be made by the petitioner, within the shortest possible time to be fixed by this Court, he contended.

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

10. Insofar as the proceedings initiated against the petitioner under Section 19 of the Motor Vehicles Act, the said proceedings cannot be said to be a unlawful or unjustifiable one, as that is the procedure contemplated under the Act, to be followed by the Regional Transport Officer like the respondent herein.

11. In this context, when a similar issue was confronted by this Court, I had an occasion to dispose a writ petition in W.P(MD). No.13365 of 2021, dated 04.08.2021, in the matter of **R.Karuppanan v. The Regional Transport Officer, Dindigul**, where after having considered the provisions of the Motor Vehicles Act, especially Section 19, I have passed the following order in that writ petition:

"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



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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 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 time frame 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."

12. The issue raised in the present writ petition also is similar to that of the issue, which has been dealt with, in the said order by this Court, and therefore, in the present case also, the petitioner would be entitled to get the same order, accordingly, this writ petition is disposed of with the following order:

"that there shall be a direction to the respondent to get reply from the petitioner for which, the



petitioner shall give reply to the show cause notice issued by the respondent, dated 02.08.2021, within one week from the date of receipt of a copy of this order, and on receipt of such reply from the petitioner, the same shall be considered, and a personal hearing also can be given to the petitioner, and thereafter, a final order shall be passed by the respondent, under Section 19 of the Motor Vehicles Act, as to whether the license of the petitioner can be returned back to the petitioner, or to be suspended, or cancelled, as has been contemplated under the said provisions of the Act, and the needful as indicated above shall be undertaken, and final orders shall be passed, within a period of four weeks thereafter, that is, after receipt of the reply to the show cause notice from the petitioner."

13. With these directions, this writ petition is disposed of. However, there shall be no order as to costs.

14. It is made clear that while sending the reply to the show cause notice, the petitioner can forward the same along with a copy of this order, which may be helpful to the respondent to act upon immediately, as indicated above.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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-27953[F] dated 02/09/2021)
+1 CC to M/s.GP (SR-28073[F] dated 03/09/2021)

W.P. (MD)No.15650 of 2021
02.09.2021

DJ(CO)

TR(07.09.2021) 7P 4C

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