



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.16061 of 2021
(Through Video Conference)

N.Anandhan

... Petitioner

-Vs-

The Regional Transport Officer,
The Regional Transport Office,
Palani.

... 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 driving licence bearing D.L.No. TN 43-19950000228.

For Petitioner : Mr.V.R.Arunkumar
For Respondents : Mr.D.Ghandiraj
Government Advocate

ORDER

Prayer sought for herein is for a writ of mandamus, directing the respondent to return the petitioner's driving licence bearing D.L.No.TN 43-19950000228.

2.The petitioner is the driver at the Tamilnadu State Transport Corporation (Kovai) Limited. While he was on duty, on 11.08.2021 in a bus bearing Registration No.TN-43N-0819, in the route between Mettupalayam and Karaikudi, the bus driven by the petitioner met with an accident at about 2.45 p.m., near Ottanchathiram, result of which, a man died. Pursuant to the said incident, an FIR has been registered in Crime No.993 of 2021 at the concerned police station for the alleged offences punishable under Section 279 and 304(A) of IPC and the case is still in investigation.

3. Pursuant to the said accident, on 12.08.2021, the concerned police seized the licence and handed over the same to the respondent and therefore, the driving licence of the petitioner is now with the respondent, and in order to get back the same, since no enquiry has been conducted under Section 19 of the Motor Vehicles Act, the



petitioner has given a representation to the respondent on 19.08.2021, and the said representation since has not been considered, the petitioner has approached this Court by filing the present writ petition.

4. Heard Mr.V.R.Arunkumar, learned counsel appearing for the petitioner, who, having reiterated the aforesaid, would seek indulgence of this Court to give a direction to the respondent to return back the driving licence of the petitioner, pending enquiry to be conducted in this regard under Section 19 of the Motor Vehicles Act.

5. Heard, Mr.D.Ghandiraj, learned Government Advocate appearing for the respondent, who would submit that, if the petitioner involved in a fatal accident pursuant to which, the driving licence of the petitioner is seized, it is incumbent on the part of the respondent to conduct an enquiry under Section 19 of the Motor Vehicles Act, for which a show cause notice would be issued shortly, pursuant to which, if the petitioner comes forward to give his explanation, the enquiry will be conducted, and whether the petitioner is entitled to get back the licence or not, would be decided at the end of the enquiry, however, the same would be completed as early as possible, or within the time frame that may be stipulated by this Court, hence, a suitable direction to that effect may be granted in this regard, he contended.

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

7. In fact similar issues are almost everyday is being dealt with by this Court, and on 04.08.2021 in W.P.(MD).No.13365 of 2021 in the matter of **R.Karuppanan vs. The Regional Transport Officer, Dindigul**, I have considered similar circumstances and passed the following order:

"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 subsection (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.



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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."

8. Insofar as the present case is concerned, since the petitioner also similarly placed, where the petitioner involved in a fatal accident pursuant to which the driving licence has been seized by the second respondent, and it is in his custody, it is for him to decide under Section 19 of the Act, for which the show cause notice has to be given followed by the enquiry, and at the earliest possible, if the enquiry is completed depending upon the outcome of the enquiry, the second respondent can pass orders and decide as to whether the driving licence of the petitioner can be return back or otherwise.

9. In that view of the matter, by applying the aforesaid order of this Court, I am inclined to dispose of this writ petition with the following direction:

"that the respondent herein shall issue show cause notice in one week from the date of receipt of a copy of this order to the petitioner, and on receipt of the same, within one week, the petitioner shall give his reply, accordingly, the enquiry shall be completed under Section 19 of the Motor Vehicles Act, and final order shall be passed thereon by the respondent, within a period of four



weeks thereafter. It is needless to mention that depending upon the outcome of the enquiry to be conducted in this regard under Section 19 of the Motor Vehicles Act, the respondent shall pass orders as to whether the driving licence of the petitioner can be return back to the petitioner or otherwise."

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

Sd/-

Assistant Registrar (CO)

// 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,
Palani.

+1 CC to M/s.SPL GP (SR-28503[F] dated 08/09/2021)

W.P. (MD)No.16061 of 2021
07.09.2021

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