



BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 21.09.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.17018 of 2021

Thirugnanam

... Petitioner

Vs.

The Motor Vehicles Inspector,
Transport Department, Unit Office,
Pattukottai Zone, Pattukottai,
Thanjavur District.

... 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 in TN 49 19880001090 within a stipulated time as may be fixed by this Court.

For Petitioner : Mr.T.A.Ebenezer

For Respondent : Mr.D.Ghandiraj

Government Advocate

O R D E R

Prayer sought for herein is for a Writ of Mandamus, directing the respondent to return the petitioner's original driving licence in TN 49 19880001090 within a time frame.

2.The petitioner is working as a driver at the Tamil Nadu State Transport Corporation at Kumbakonam Branch. While he was on duty, on 01.08.2021, in the route between Peravoorani to Pattukottai, driving the bus bearing Registration No.TN 68 N 0587, the bus met with an accident at about 3.00 p.m., near Othakadai bus stop. Result of the said accident, a lady died, and therefore, a case has been registered against the petitioner in Sethubavachathiram Police Station on 01.08.2021 in Crime No.477 of 2021 for the alleged offences under Sections 279 and 304(A)IPC.

3.Pursuant to the said accident as well as the registration of the case, the concerned police, having seized the driving licence of the petitioner handed over the same to the respondent.

4.Thereafter, the respondent had issued a show cause notice under Section 19 of the Motor Vehicles Act, 1988, on 06.08.2021, seeking show cause from the petitioner and at that stage, the petitioner has approached this Court by filing the present writ petition, in order to get back the license of the petitioner.

5.I have heard, Mr.T.A.Ebenezer, learned counsel appearing for the petitioner, who reiterated the aforesaid facts and would seek
<https://hcservices.go.in/hcservices> this Court, to issue a direction to the respondent to



return back the driving license of the petitioner.

6.I have heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondent, who submit that, once the driving license has been seized by the police authorities for a fatal accident and if it is handed over to the respondent, he has to conduct an enquiry under Section 19 of the Motor Vehicles Act, therefore, a show cause notice has been issued, on 06.08.2021, therefore, after completing such enquiry, the issue would be decided that whether the driving license can be return back to the petitioner or not, he contended.

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

8.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 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."

9. Insofar as the present case is concerned, since the petitioner also similarly placed, where his driving licence has been seized and has been kept with the respondent, and therefore, he has to conduct an enquiry under Section 19 of the Motor Vehicles Act, 1988, therefore, this writ petition is also disposed of with the following order:

"that there shall be a direction to the respondent to complete the enquiry already been contemplated under Section 19 of the Act, by issuing show cause



notice, dated 06.08.2021, for which, if no reply, so far, has been filed by the petitioner, the same shall be filed within one week, and on receipt of the reply from the petitioner, or if the reply is already submitted by the petitioner, on considering the same, the respondent shall complete the enquiry under Section 19 of the Motor Vehicles Act and pass final orders on merits thereon, within a period of four (4) 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 and communicate the same to the petitioner."

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

11. A copy of this order shall be forwarded immediately by the petitioner along with his earlier request or copy of the reply, if any, to the respondent, and on receipt of the same, the respondent shall do the needful as indicated above.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PNM/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 Motor Vehicles Inspector,
Transport Department, Unit Office,
Pattukottai Zone, Pattukottai,
Thanjavur District.

W.P. (MD) No.17018 of 2021
21.09.2021

NSN (CO)
KB (27.10.2021) 6P 2C