



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.09.2021**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.17810 of 2021

K.Balakrishnan

... Petitioner

Vs.

1.The Regional Transport Officer/Licensing Authority,
The Regional Transport Office,
Palani,
Dindigul - District.

2.The Inspector of Police,
Neikarapatti Police Station,
Neikarapatti,
Dindigul - District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to return his driving license bearing D.L.No. TN- 58- 19980005687 forthwith.

For Petitioner : Mr.S.Arunachalam
For Respondents : Mr.D.Ghandiraj,
Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to return his driving license bearing D.L.No. TN- 58- 19980005687, forthwith.

2.The petitioner is working as a Driver in the Tamil Nadu State Transport Corporation, Coimbatore. On 15.09.2021, when the petitioner was driving the bus bearing registration number TN 38 N 2921 between Pollachi and Palani, at V.K.Mills bus stop, after the vehicle moved towards eastern direction, it met with an accident, resultantly, a 70 year old person who was coming in the two-wheeler, died. The said incident has been registered by the second respondent police on the same day in FIR No.735/21, for the alleged offences punishable under Sections 279 and 304(A) of I.P.C. and the issue is under investigation.



3. Pursuant to the registration of the said case, the driving license of the petitioner was seized by the respondent Police and handed over to the first respondent. In order to get back the said driving license, the petitioner has given a representation on 20.09.2021, to the first respondent and in order to consider the said representation for getting back the driving license of the petitioner to issue a direction by way of Mandamus, the petitioner has approached this Court by filing this Writ Petition.

4. Heard Mr.S.Arunachalam, learned Counsel appearing for the petitioner, who having reiterated the above, would seek indulgence of this Court to issue a direction to the first respondent.

5. However, Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, on instructions, would submit that, the accident took place only on 15.09.2021 and pursuant to which the license was seized and handed over to the first respondent. Therefore, the first respondent has to issue a show cause notice to conduct an enquiry under Section 19 of the Motor Vehicles Act and after getting the reply from the petitioner and after hearing him, a decision would be taken as to whether the petitioner's driving license can be returned back to him or not and therefore, a reasonable time may be given to the first respondent to complete the enquiry and pass final orders.

6. I have considered a similar issue in number of cases and when one such case came up for hearing on 04.08.2021 in W.P.(MD)No.13365 of 2021, I have passed the following order:

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



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 -

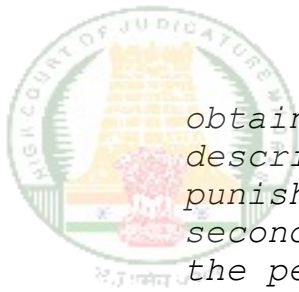
(i) disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence ; or

(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



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.

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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."

7.In view of the aforesaid order having been passed in number of cases and the petitioner being similarly placed, I am of the view that, this writ petition can be disposed of, by giving the following directions:

"that the first respondent is hereby directed to issue a show cause notice to the petitioner, within a period of one (1) week from the date of receipt of a copy of the order and on receipt of such show cause notice, the petitioner shall give his reply, within one (1) week and on receipt of the reply from the petitioner, the first respondent shall complete the enquiry under Section 19 of the Motor Vehicles Act and pass final orders thereon, within a period of four (4) weeks, thereafter. It is needless to mention that, depending upon the outcome of the enquiry under Section 19 of the Motor Vehicles Act, the decision to return back the license would be taken on merits and in accordance with law.

8.With the above directions, this writ petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 Regional Transport Officer/Licensing Authority,
The Regional Transport Office,
Palani,
Dindigul - District.

2.The Inspector of Police,
Neikarapatti Police Station,
Neikarapatti,
Dindigul - District.

+1 CC to M/s.SPL.GP (SR-30851[F] dated 01/10/2021)

W.P. (MD)No.17810 of 2021

Dated:

30.09.2021

MGJ(05.10.2021) 8P 4C