



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.19185 of 2021

P.Manivannan

... 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 licence 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

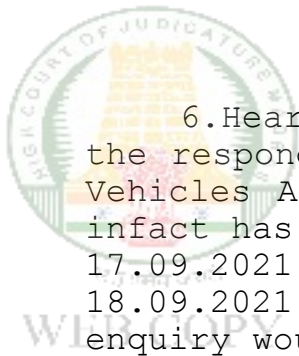
Prayer sought for herein is for a Writ of Mandamus, directing the respondent to return the petitioner's original driving licence within a time limit that may be fixed by this Court.

2.The petitioner was working as a driver at the Government Transport Corporation. On 23.08.2021, the petitioner was in duty, as he was driving the bus with Registration No.TN 57 N 1812 in the route between Natham and Madurai, where at a place called Vembaralli toll gate at about 5.00 p.m., the bus met with an accident, with the result, the two wheeler rider died, pursuant to which, a case has been registered by the Natham police station, following the same, the concerned police has seized the driving licence of the petitioner and handed over to the respondent for further action.

3.On receipt of the communication from the concerned police with the driving licence of the petitioner, the respondent had issued a show cause notice, dated 17.09.2021 by initiating action by way of enquiry under Section 19 of the Motor Vehicles Act, 1988.

4.In response to the said show cause notice, the petitioner has given reply on 18.09.2021. Despite the same, since no orders has been passed so far by the respondent, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

5.Heard Mr.G.M.Xavier, learned counsel for the petitioner, who having reiterated the aforesaid, would seek indulgence of this Court to issue suitable direction for the respondent.



6. Heard Mr. Ghandiraj, learned Government Advocate appearing for the respondent, who would submit that under Section 19 of the Motor Vehicles Act, enquiry has to be conducted by the respondent, which infact has been initiated by issuance of the show cause notice dated 17.09.2021 and the same, if at all responded by the petitioner on 18.09.2021 by way of representation/reply, based on which, the enquiry would be completed shortly and depending upon the outcome of the enquiry, a decision would be taken by the respondent, as to whether the driving licence of the petitioner can be returned back to him or any further action can be taken against him in accordance with law.

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

8. These kind of cases have already been dealt with in many numbers by this Court and in one such case, an order has been passed on 04.08.2021 in W.P.(MD)No.13365 of 2021 in the matter of **R. Karuppanan vs. The Regional Transport Officer, Dindigul**, where, this Court has 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 is similarly placed, where his driving licence has

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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 conduct an enquiry under Section 19 of the Motor Vehicles Act, 1988, against the petitioner with regard to his driving licence, by considering the reply given by the petitioner on 18.09.2021 in response to the show cause notice, dated 17.09.2021 and the respondent shall complete the enquiry and pass final orders within a period of four weeks from the date of receipt of a copy of this order.

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 returned 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.

11. A copy of this order along with his representation dated 18.09.2021 shall be forwarded immediately by the petitioner to the respondent, for taking needful action, as indicated above.

Sd/-

Assistant Registrar (Crl)

// 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,
Regional Transport Office, Dindigul.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-32791[F] dated 27/10/2021)

+1 CC to M/s.SPL.GP (SR-33036[F] dated 28/10/2021)

W.P. (MD)No.19185 of 2021

27.10.2021