



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.19093 of 2021

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M.Thilagar

... Petitioner

Vs.

The Regional Transport Commissioner,
O/o. The Regional Transport Commissioner,
Madurai(Central),
Madurai-625 020.

... 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 License bearing No.TN 60 19951002926 seized and kept in the custody of the respondent based on the Petitioner's representation dated 22.09.2021, through registered post with ack. due within the time limit that may be stipulated by this Court.

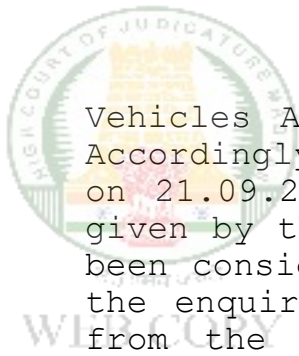
For Petitioner	: Mr.S.P.Naveen Kumar
For Respondent	: Mr.D.Ghandiraj
	Government Advocate

ORDER

The prayer sought for herein is Writ of Mandamus, directing the respondent to return the petitioner's original Driving License bearing No.TN60 19951002926 seized and kept in the custody of the respondent based on the Petitioner's representation dated 22.09.2021, through registered post with ack. due within the time limit that may be stipulated by this Court.

2.It is the case of the petitioner that the petitioner was working as a driver in Government Transport Corporation. While he was driving the Government bus between Mattuuthavani Bus Stand and Periyar Nilayam Bus Stand with the Bus Registration No.TN 58 N 1445 on 26.08.2021, the bus driven by the petitioner met with an accident. With the result, a person died. Therefore, a case has been registered at the concerned Police Station in Crime No.77 of 2021, following which the driving licence of the petitioner was seized by the concerned police and handed over to the respondent.

3.On such handing over of the driving licence of the petitioner to the respondent, the respondent, under Section 19 of the Motor



Vehicles Act, 1988 has initiated action by conducting an enquiry. Accordingly, a show cause notice has been issued to the petitioner on 21.09.2021, for which, reply by way of representation has been given by the petitioner on 22.09.2021. Since the same so far has not been considered and concluded with an enquiry, in order to conclude the enquiry and to get back the driving licence of the petitioner from the respondent, he has moved this writ petition with the aforesaid prayer.

4. Heard Mr.S.P.Naveen Kumar, learned counsel appearing for the petitioner, who having reiterated the aforesaid, would seek indulgence of this Court.

5. Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondent, who would submit that, at the earliest, enquiry under Section 19 of the Motor Vehicles Act, 1988 would be conducted and depending upon the outcome of the enquiry, a decision would be taken as to whether the driving licence can be returned back to him or not.

6. When similar issues came up before this Court, detailed orders have been passed and in one such case, in W.P.(MD)No.13365 of 2021, in the matter of **R.Karuppanan vs. The Regional Transport Officer, Dindigul**, this Court, by order dated 04.08.2021, 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



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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,



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."

7.Since the petitioner's case is similarly placed, a similar order in this Writ Petition is also passed, where the respondent, after considering the reply given by the petitioner dated 22.09.2021, can complete the enquiry and pass orders and while passing the orders, the respondent can decide as to whether the petitioner would be entitled to get back the driving licence.

8.The needful as indicated above shall be completed by the respondent, within a period of four weeks from the date of receipt of a copy of this order.

9.With these directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS I)

// 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

The Regional Transport Commissioner,
O/o. The Regional Transport Commissioner,
Madurai(Central), Madurai-625 020.

+1 CC to M/s.SPL.GP (SR-32835[F] dated 27/10/2021)

W.P. (MD)No.19093 of 2021

Dated:

26.10.2021

MGJ(28.10.2021) 6P 3C

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