



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P(MD).No.20212 of 2021

V.Mayandi

... Petitioner

-Vs-

1.The Regional Transport Officer,
Viruthunagar District,
Viruthunagar.

2.The Inspector of Police,
Sattur Police Station,
Viruthunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to consider representation given by the petitioner dated 05.10.2021 and to return back the original driving licence in Licence No.TN67Z20080002690.

For Petitioner : Mr.AN.Ramanathan
for Mr.K.Muthu Ganesa Pandian.

For Respondents : Mr.A.Baskaran,
Government Advocate.

O R D E R

Mr.AN.Ramanathan, learned counsel, representing the counsel on record for the writ petitioner is before this virtual Court.

2.Learned counsel for writ petitioner submits that the writ petitioner is working as a Driver with Transport Corporation from 2014. There was a fatal accident on 14.09.2021 when the writ petitioner was behind the wheel/driving a transport bus. First Information Report (FIR) has been registered *inter alia* under Sections 279 and 304(A) of Indian Penal Code (IPC) on the file of the second respondent-Police Station i.e., Sattur Police Station. The matter is still in FIR stage, but the original driving licence seized from the writ petitioner which is now with the first respondent i.e., Regional Transport Officer, Viruthunagar District (RTO), has not been returned to writ petitioner.

3.Adverting to earlier orders dated 30.04.2019 made in W.P.No.13570 of 2019 and 10.11.2020 made in W.P(MD).No.15797 of 2020 by Honourable Predecessor Judges, learned counsel submits that in similar matters, this Court has directed return of original driving licence to the licence holder.

4.The above mentioned two orders are as follows:

W.P.No.13570 of 2019 dated 30.04.2019:

"Mr.V.Shanmuga Sundar, learned Special Government



Pleader takes notice for the respondent. By consent, this Writ Petition is taken up for final disposal.

2.In this Writ Petition, the petitioner challenges the impugned order of disqualifying his driving license passed by the respondent, dated 02.04.2019 under Section 19(1) of the Motor Vehicles Act, 1988, (In short "the Act")

3.According to the petitioner, the main ground raised in the present Writ Petition is that the impugned order passed by the respondent is a cryptic one and a non-speaking order. The said order was passed in a printed format, therefore, the petitioner's explanation dated, 13.03.2019 was not at all considered by the respondent. It is further submitted that under Section 19 (1) of the Act, the respondent ought to have granted an opportunity of being heard and without granting such opportunity, the respondent passed the impugned order in an arbitrary manner and the same is liable to be set-aside.

4.The learned Special Government Pleader appearing for the respondent would submit that after getting explanation from the petitioner only, the impugned order has been passed and therefore, the petitioner was given opportunity to submit his explanation. However, the plea raised by the petitioner with regard to non-speaking order i.e., in a printed format the impugned order has been passed, the learned Special Government Pleader is not in a position to reply to the said ground raised by the petitioner.

5.At this juncture, it would be useful to extract the impugned order passed by the respondent under Section 19(1)(c) of the Act:-

ஆணை
பார்வை 1-ல் கண்ட காவல் நிலைய ஆய்வாளர்
தனது அறிக்கையில் திரு.S.R.பாலசுந்தரின் என்பவர் TN38-N-
3071 என்கிற வாகனத்தை அதிவேகமாகவும்,
அஜாக்கிரதையாகவும் ஓட்டிச் சென்று உயிரிழப்பு
ஏற்படுத்தியதாக தெரிவித்துள்ளார்.
பார்வை 2-ல் காணும் இவ்வலுக கடிதத்தின்
வாயிலாக மேற்கண்ட குற்றத்திற்கு ஏன் ஓட்டுநரின் உரிமத்தை
மோட்டார் வாகனச்சட்டம் 19-ன் கீழ் ரத்து செய்யக்கூடாது
என விளக்கம் கேட்டு அறிக்கை 13.03.2019 அனுப்பப்பட்டது.
இவர் 13.03.2019 அன்று நேரில் ஆஜராகி வாய்மொழி
விளக்கம் பெறப்பட்டது. மோட்டார் வாகன ஆய்வாளர் நிலை
வட்டார போக்குவரத்து அலுவலகம் கோவை (மே)
அவர்களின் அறிக்கையும் பெறப்பட்டதில் ஓட்டுநர் ஓரளவுக்கு
பொறுப்பாகிறார்.



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எனவே உரிமம் வழங்கும் அதிகாரி என்ற முறையில்
எனக்கு வழங்கப்பட்ட அதிகாரத்தின் மீது மத்திய மோட்டார்
வாகனச் சட்டம் 1988 பிரிவு 19 (1) (சி)-ன் மீது
திரு.S.R.பாலசந்திரன் அவர்களின் ஓட்டுநர் உரிமம்
எண் TN3319990002726-ஐ ஓட்டுநர் உரிமத்தை
13.03.2019 முதல் 12.06.2019 வரை முன்று மாதக்காலத்திற்கு
தற்காலிக சதுகி இழப்புச் செய்துள்ளேன். இதன் பொருட்டு
மோக்குவாத்து ஆணையர் சென்னை அவர்களின் கற்றுறிகளை
எண் 48/2017 நாள் 26.05.2017-ன் மீது தகுதியிழப்பு ஓட்டுநர்
உரிமங்கள் கழிவு காரணம் நபந்தனைகளை முர்த்தி செய்த
பின்னரே அம் உரிமம் திருப்ப வழங்க வேண்டுமென
அறிவுறுத்தப்பட்டுள்ளது.

1. உரிமம் வழங்கும் ஏற்பாடு வகையில்
வியத்தக்கம் ஏற்படுத்திய அனைத்து ஓட்டுநர்களும்
தங்களுக்கு அருகாமையில் உள்ள அல்லது
பொலிஸ்ச்சியில் தமிழ்நாடு மாநில போக்குவரத்து
கழக பயிற்சி மையத்தில் குறைந்தது இரண்டு
தாட்கள் புத்தக பயிற்சி எடுத்துக்கொண்டு
அதற்கான சான்றித சமர்ப்பிக்க வேண்டும்.

2. ஓட்டுநர் உரிமம் தகுதியிழப்பு செய்ததை
ரத்து செய்யக்கோரும் போது அரசு
மருத்துவமனையிலிருந்து மருத்து தகுதிச்சான்று
பெற்று சமர்ப்பிக்கப்பட வேண்டும்.

ஆகவே சம்பந்தப்பட்ட ஓட்டுநர் திரு.S.R.பாலசந்திரன்
அவர்கள் மேற்படி சான்றுகளை சமர்ப்பித்து தகுதியிழப்பு காலம்
முடிந்த பின்னர் ஓட்டுநர் உரிமங்களை பெற்றுக்கொள்ளுமாறு
கேட்டுக்கொள்கிறேன்.

மேற்கண்ட உத்தரவினை எதிர்த்து மேல் முறையீடு
செய்யவிரும்பினால் இணைப்போக்குவரத்து ஆணையர் கோவை
அவர்களிடம் இக்கடிதம் கிடைக்கப்பெற்ற 30 தினங்களுக்குள்
மத்திய மோட்டார் வாகனச் சட்டம் 1988 பிரிவு 19(3)-ன் மீது
மேல்முறையீடு செய்யலாம்."

6. On a perusal of the aforesaid order, it is seen that firstly, the said order of the respondent is a cryptic order and a non-speaking one and no reason whatsoever has been passed. Secondly, an opportunity of personal hearing was not provided to the petitioner before passing the impugned order, which is in violation of Section 19 of the Act. Thirdly, the said order passed in a printed format and therefore, the order passed by



the respondent was not a reasoned one, which is in total non-application of mind.

7. In view of the aforesaid reason, this Court has no hesitation to set-aside the impugned order and passes the following order:

(i) The impugned order passed by the respondent, dated 02.04.2019 is set aside;

(ii) It is open to the respondent to pass orders after adhering the provisions contemplated under Section 19 of the Act i.e., an opportunity of being heard shall be granted to the petitioner before passing the impugned order and thereafter, shall pass the reasoned order, within a period of two weeks from the date of receipt of a copy of this order;

(iii) The copy of this order shall be communicated to the Commissioner, Transport Department, Chepauk, Chennai-600 005, who is directed to give necessary instructions to all the Licensing Authorities / Regional Transport Officers concerned to strictly comply with the Rules and pass reasoned orders under Section 19(1) of the Motor Vehicles Act.

8. Accordingly, the Writ Petition is allowed. There is no order as to costs."

W.P (MD).No.15797 of 2020 dated 10.11.2020:

"This writ petition has been filed for a Mandamus seeking for a direction to direct the respondents to return the original driving licence of the petitioner bearing DL No.TN67 19980002634 to him within a time frame to be fixed by this Court.

2. The case of the petitioner is that he was appointed as a Driver with the Tamil Nadu State Transport Corporation (Madurai)Ltd., and he is presently serving at Sattur Branch, Virudhunagar. According to him, due to an accident that happened on 06.10.2020, a First Information Report was registered against him in crime No.170 of 2020 by the TIW-II Police Station, Madurai City for the offence punishable under Sections 279 and 304A IPC.

3. In the affidavit filed in support of the writ petition, the petitioner has stated that he was not responsible for the accident. According to him, his driving license was seized by the second respondent on 07.10.2020 and the same was handed over to the first



respondent for taking action against the petitioner under Section 19(1)(C) of the Motor Vehicles Act. It is the case of the petitioner that till date no show cause notice has been issued by the first respondent to him. It is also the case of the petitioner that the second respondent has failed to follow the procedures as contemplated under Section 206(2) of the Motor Vehicles Act before seizing the license from the petitioner. In such circumstances, he has filed the present writ petition seeking the aforesaid relief.

4.Mr.C.Ramesh, learned Special Government Pleader, accepts notice on behalf of the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

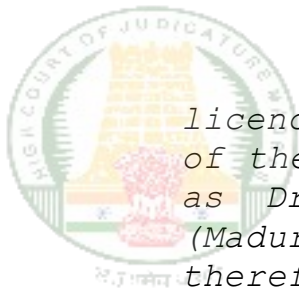
5.Heard Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.C.Ramesh, learned Special Government Pleader appearing for the respondents.

6.The learned counsel appearing for the petitioner drew the attention of this Court to the orders passed in identical matters by this Court, wherein, this Court had directed the first respondent to return the original Driving Licence. This Court in all those decisions held that unless and until, the license issued by the competent authority is cancelled or suspended or revoked in the manner known to law, it is deemed to be in force. In the case on hand, the competent authority has not passed orders for cancellation or suspension or revocation of the driving license of the petitioner.

7.However, it is contended by the learned Special Government Pleader appearing for the respondents that show cause notice has been issued to the petitioner for cancellation of licence under Section 19 of the Motor Vehicles Act, which is disputed by the learned counsel for the petitioner.

8.Admittedly, no final order has been passed by the first respondent under Section 19 of the Motor Vehicles Act impounding the licence of the petitioner. This being the case, the decisions relied upon by the learned counsel for the petitioner squarely applies to the facts of the instant case.

9.In the case on hand, even without passing any order for cancellation or suspension or revocation of the



licence, the respondents have seized the driving licence of the petitioner. The petitioner is admittedly, employed as Driver in Tamil Nadu State Transport Corporation (Madurai)Ltd. He has to eke out his livelihood and therefore, without driving licence, he cannot continue his duty as a Driver with Tamil Nadu State Transport Corporation (Madurai)Ltd. Since no final order has been passed under Section 19 of the Motor Vehicles Act, the original licence of the petitioner will have to be necessarily returned back to the petitioner by the respondents.

10. For the foregoing reasons, this Court directs the respondents to return the petitioner's original driving licence bearing DL No.TN67 19980002634 to the petitioner, within a period of one week from the date of receipt of a copy of this order.

11. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed."

5. Mr. A. Baskaran, Government Advocate (civil side), accepts notice on behalf of both the respondents.

6. Learned State counsel submits, on instructions, that the matter is in FIR stage and prosecution will be pursued. However, there is no disputation qua the aforementioned earlier orders made by Honourable Predecessor Judges and the same having been complied with by the State without carrying the matter in appeal by way of intra-court appeals.

7. In the light of the narrative thus far, this Court is of the considered view that the second limb of the prayer, namely the prayer to return the original driving licence [bearing licence No. TN67Z20080002690] of the writ petitioner can be acceded to.

8. This Court is informed that the original driving licence is now with the first respondent. The first respondent shall take necessary written undertaking, retain photocopies of the original driving licence and return the writ petitioner's aforementioned original driving licence to writ petitioner (under due acknowledgment) as early as possible and in any event within a fortnight from today i.e., on or before 24.11.2021. The writ petitioner shall go over to the office of the first respondent on any working day in the after noon session between 02.00 PM and 04.00 PM and the original driving licence shall be handed over to him under due acknowledgment.



9.It is made clear that the writ petitioner shall produce the original driving licence as and when called for, make himself available for the criminal case to proceed and cooperate with the investigation.

10.Captioned Writ Petition is disposed of in aforesaid manner i.e., with aforementioned directive without any order as to costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pkn

To

1.The Regional Transport Officer,
Viruthunagar District,
Viruthunagar.

2.The Inspector of Police,
Sattur Police Station,
Viruthunagar District.

+1 CC to M/s.SPL.GP (SR-34069[F] dated 11/11/2021)

W.P (MD) .No.20212 of 2021
10.11.2021

PS (CO)

RS/JGB (17.11.2021) 7P 4C