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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.325 of 2022
and W.M.P.No.360 of 2022

M.Balasubramanian

...Petitioner

-Vs-

1. The Regional Transport Officer
and Licensing Authority,
Regional Transport Office
Chengalpattu.
2. The Regional Transport Officer
and Licensing Authority,
Regional Transport Office
Kovilpatti.
3. Inspector of Police
H3, Maraimalai Nagar Police Station
Chengalpattu District
(Crime No.1082/2021)

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents to forthwith return the petitioner's original driving license bearing DL No.TN69Z19940000065 to him within a time that may be fixed by this Court.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.V.Manoharan,
Additional Government Pleader

O R D E R

The prayer sought for herein is for a Writ of Mandamus to direct the respondents to forthwith return the petitioner's original driving license bearing DL No.TN69Z19940000065 to him within a time that may be fixed by this Court.

That the petitioner has been working as a Driver at the Tamil Nadu Government Transport Corporation, Tirunelveli. While so, on 06.12.2021, when he was driving the vehicle with



Registration No.TN-01-AN-3010 in the road between Chennai and Tirunelveli, at 20.15 Hrs, he made an accident near Potheri at Chengalpet District, as a result of which, a person was killed.

2. Pursuant to the same, the third respondent has registered a case for the alleged offences punishable under Sections 279 and 304A of IPC and also the driving license of the petitioner having been seized by the police, has been forwarded through their communication dated 09.12.2021 to the first respondent and thereafter the license is kept at the custody of the first respondent and no enquiry has been conducted and the driving license of the petitioner has not so far been given back to the petitioner. In this regard, the petitioner, though had made a representation on 20.12.2021, the same has since not been considered, he has approached this Court by filing the present writ petition.

3. Learned counsel for the petitioner, by relying upon some earlier orders of this Court would contend that, the first respondent cannot keep the driving license of the petitioner endlessly without conducting any enquiry and therefore the driving license of the petitioner shall be directed to be returned back to the petitioner immediately.

4. However, Mr.V.Manoharan, learned Additional Government Pleader appearing for the respondents would submit that, number of orders have been passed by this Court, where the concerned Regional Transport Authority has been directed to conduct an enquiry under Section 19 of the Motor Vehicles Act within a time frame and depending upon the outcome of the enquiry, the decision on returning the driving license to the person concerned can be decided.

5. I have considered the submissions made by the learned counsel appearing for both sides and have perused the materials placed on record.

6. As has been rightly pointed out by the learned Additional Government Pleader, this is not the first time this kind of issue has come up before this Court, as number of such cases have already been disposed of by this Court. In one such case in W.P.(MD).No.13365 of 2021, I had an occasion to consider similar issue and pass the following the 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



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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



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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



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Section 19 of the Motor Vehicles Act, the decision as to whether the driving license of the petitioner can be returned back to the petitioner or the same can be suspended for a period as penalty, as contemplated under Section 19 of the Act, can be communicated to the petitioner.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

1. The Regional Transport Officer
and Licensing Authority,
Regional Transport Office
Chengalpattu.
2. The Regional Transport Officer
and Licensing Authority,
Regional Transport Office
Kovilpatti.
3. The Inspector of Police
H3, Maraimalai Nagar Police Station
Chengalpattu District

+1cc to Government Pleader, SR.NO.2731(30/05/2022)

W.P.No. 325 of 2022

NRJK(CO)
SP(12/01/2022)