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W.P. No. 27832 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 27832 of 2022

and

W.M.P. No. 27117 of 2022

G.Krishnakumar

... Petitioner

-VS-

The Regional Transport Authority,
Office of the Regional Transport Authority,
Mettupalayam.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondent to return the Petitioner's Original Driving License bearing No. TN4120000006046, without any endorsement.

For Petitioner : Mr. V.Ajoy Khose

For Respondent : Mrs. Akila Rajendran,
Government Advocate



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ORDER

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Heard Mr. V.Ajoy Khose, Learned Counsel for the Petitioner, Mrs. Akila Rajendran, Learned Government Advocate, who takes notice for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is a driver in the Tamil Nadu State Transport Corporation and while on duty, the bus bearing Registration No. TN 38 N 3164 driven by him had met with an accident on 25.08.2022. The Police Officer, who is investigating that accident, has seized the driving licence of the Petitioner and forwarded it to the Licensing Authority, and despite representation dated 08.09.2022 made, it has not been returned to him. In that backdrop, relying on the decision of the Division Bench of this Court in ***P.Sethuram -vs- Licensing Authority, Regional Transport Officer, Dindigul*** (2010 WLR 100) holding that the provisions of the Motor Vehicles Act, 1988, (hereinafter referred to as 'the Act' for short) do not empower the Licensing Authority to suspend or revoke a driving licence for a first offence, the Petitioner has filed this Writ Petition for a direction to the Licensing Authority to return the same.



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3. At this juncture, it must be noticed that certain amendments have been made to the Act, which have come into force from 01.09.2019 onwards and clause (4) in Section 206 and clause (1-A) in Section 19 have been inserted to the Act, which have bearing to the contentions raised in the Writ Petition and read as follows:-

"206. Power of police officer to impound document:-

....

(4) A police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the driver of a motor vehicle has committed, an offence under any of Sections 183, 184, 185, 189, 190, 194-C, 194-D or 194-E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under Section 19:

Provided that the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgement therefor, but such acknowledgement shall not authorise the holder to drive until the licence has been returned to him."



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"19. Power of licensing authority to disqualify from holding a driving licence or revoke such licence:-

....

(1-A) Where a licence has been forwarded to the licensing authority under sub-section (4) of Section 206, the licensing authority, if satisfied after giving the holder of the driving licence an opportunity of being heard, may either discharge the holder of a driving licence or, it may for detailed reasons recorded in writing, make an order disqualifying such person from holding or obtaining any licence to drive all or any class or description of vehicles specified in the licence:-

- (a) for a first offence, for a period of three months;*
- (b) for a second or subsequent offence, with revocation of the driving licence of such person:*

Provided that where a driving licence is revoked under this Section, the name of the holder of such driving licence may be placed in the public domain in such manner as may be prescribed by the Central Government."

In view of the same, the lacunae highlighted by the Division Bench of this Court has ceased to exist and the impugned action of seizure of the driving



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licence of the driver of the vehicle involved in an accident by the Police Officer and forwarding it to the Licensing Authority, has been statutorily provided and as such, the decision of the Division Bench of this Court relied by the Petitioner would not have any applicability in cases where the accident has occurred after the amendments to the Act have come into force, as in the present one. It is also borne out from the record that pursuant to the recommendations made by the Committee on Road Safety appointed by the Hon'ble Supreme Court of India, show cause notice dated 19.10.2022 has been issued to the Petitioner for suspending his licence and after receipt of the explanation from the Petitioner, the Licensing Authority would pass appropriate orders in the matter under Section 19(1-A) of the Act.

4. Learned Counsel for the Petitioner highlights that clause (1-A) of Section 19 of the Act empowers the Licensing Authority to disqualify a person from holding a driving licence for a first offence for a period of three months and that the Petitioner, whose licence has been seized for a first offence, has been disabled since then to drive any vehicle and the aforesaid period of three months would also lapse shortly, and in such circumstances, the Licensing Authority cannot retain the driving licence to the Petitioner beyond that period. It is further pleaded that on account of seizure of the driving licence, the

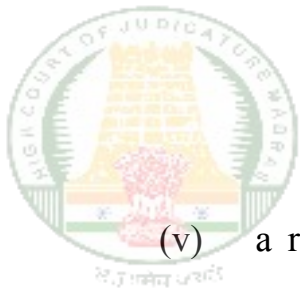


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Petitioner is out of employment and any further delay in returning his driving licence causes hardship for his livelihood and an expeditious decision would have to be taken by the Licensing Authority in the matter.

5. In view of the foregoing discussion, this Court without expressing any view on the correctness or entitlement of the claim made by the Petitioner, passes the following order:-

- (i) the Petitioner shall submit his explanation to the show cause notice dated 19.10.2022 issued to him within ten days from the date of its receipt;
 - (ii) the Licensing Authority shall immediately consider the explanation submitted by the Petitioner for the show cause notice dated 19.10.2022 issued to him;
 - (iii) if any other details or supporting documents are necessary, the deficiencies in that regard shall be informed in writing by the Licensing Authority to the Petitioner requiring the same to be furnished within 2 clear working days from the date of its receipt by him;
 - (iv) an enquiry shall be conducted thereafter affording full opportunity of personal hearing to the Petitioner to explain his position in that regard;
- and



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(v) a reasoned order shall be passed dealing with each of the contentions

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communicated by 30.11.2022 under written acknowledgment.

6. In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

19.10.2022

skr

Index: Yes/No

Note: Issue order copy by 11.11.2022.

To

The Regional Transport Authority,
Office of the Regional Transport Authority,
Mettupalayam.



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P.D. AUDIKESAVALU, J.

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