



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.NO.28325 OF 2021

AND

W.M.P.NOS.29909 & 29911 OF 2021

S.Balakrishnan

.. Petitioner

Vs.

The Regional Transport Officer,
Office of the Regional Transport Authority,
Government of Tamil Nadu,
Sholhinganallur Zone,
Chennai - 600 041.

.. Respondent

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 08.12.2021 passed by the respondent in Seyal. Murai. Order No.B3/032512/2021, quash the same and consequently direct the respondent to return forthwith the petitioner's original license bearing No.TN 20 20030003886 without any endorsement.

For Petitioner : Mr.S.Sakthivel

For Respondent : Mr.K.Karthik Jagannath
(Government Advocate)

O R D E R

(The matter is heard through "Video Conferencing / Hybrid Mode / Physical Mode".)

This Writ Petition is filed for issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 08.12.2021 passed by the respondent in Seyal. Murai. Order No.B3/032512/2021, quash the same and consequently direct the respondent to return forthwith the petitioner's original license bearing No.TN 20 20030003886 without any endorsement.



2. According to the petitioner, while he was working as Driver in Tamil Nadu State Transport Corporation (Chennai) Limited, an accident has occurred on 05.11.2021 and a lady got injured in her left leg knee in the said accident. A case has been registered under Sections 279 & 337 of the Indian Penal Code in Crime No.485 of 2021 by the Inspector of Police, J-3 Police Station (TIW), Guindy, Chennai - 600 032 based on the complaint. While so, on 16.11.2021, the respondent issued show cause notice seeking explanation as to why the petitioner's driving license should not be canceled under Section 19 (1) (d) & (f) of the Motor Vehicles Act, 1988. The petitioner on 07.12.2021, appeared before the respondent and submitted his explanation and on that day, no enquiry was conducted by the respondent. Subsequently, when the petitioner visited the respondent's office on 17.12.2021, he was informed that his driving license was suspended temporarily for a period of six months commencing from 05.11.2021 to 04.05.2022 by the impugned order dated 08.12.2021.

3. Against the said order dated 08.12.2021, the petitioner has come out with the present Writ Petition.

4. The learned counsel appearing for the petitioner contended that without giving any opportunity to the petitioner, the respondent passed the impugned order. The show cause notice issued to the petitioner was in a printed format. Only in the impugned order, it has been stated that the order was issued in terms of Section 19 (1) (c) of the Motor Vehicles Act, 1988. The petitioner was not given any opportunity to explain as to whether the said Section is applicable to this case. In support of his contention, the learned counsel relied on the judgment of Division Bench of Madurai Bench of this Court reported in 2010 Writ L.R. 100, (P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul) and prayed for allowing the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the entire materials on record.

6. From the materials on record, it is seen that the respondent has suspended the driving license of the petitioner for a period of six months commencing from 05.11.2021 to 04.05.2022 invoking Section 19 (1) (c) of the Motor Vehicles Act, 1988. The said Section reads as follows:

"The Motor Vehicles Act, 1988:



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 (61 of 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

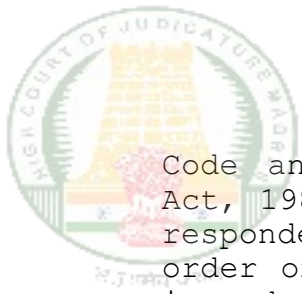
(h) being a person under the age of eighteen years who has been granted a learner's licence or a driving licence with the consent in writing of the person having the care of the holder of the licence and has ceased to be in such care,

ist 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."

A reading of the said Section would show that a license of a person can be suspended only if ingredients of said Section is attracted. In the present case, the accident has occurred, a criminal case has been registered and investigation is pending. Before completion of investigation and criminal case, the respondent has passed the impugned order. The petitioner is not convicted for any offence committed by him under Indian Penal



Code and ingredients of Section 19 (1) of the Motor Vehicles Act, 1988 is not attracted to the facts of the present case. The respondent has issued show cause notice and passed the impugned order only based on the letter written by the Police. A similar issued was considered by the Division Bench of Madurai Bench of this Court reported in 2010 Writ L.R. 100, cited supra, wherein the Division Bench of Madurai Bench of this Court at paragraph Nos.5 & 8 to 11, has held as follows:

" ... 5. Section 19(1) of the Motor Vehicles Act, 1988, empowers the Licensing Authority to disqualify a person for holding or obtaining any driving licence for a specified period or to revoke any such licence. Similarly, a Court which convicts a person for an offence under the Act, is empowered by Section 20(1) to disqualify such person from holding a driving licence for a specified period. Section 21 makes a driving licence become suspended, if the holder of the licence had been previously convicted of an offence punishable under Section 184 and a case had been registered against him on the allegation of causing the death or grievous injury to one or more persons by dangerous driving. Section 22 empowers the Court to cancel or suspend the driving licence, upon conviction of a person for an offence under Section 184.

8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a driving licence, if any of the contingencies prescribed in Clauses (a) to (h) of Sub Section (1) of Section 19 arises. Moreover, the power under Section 19(1) can be invoked only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.

9. But in the case on hand, the licence of the appellant was impounded or retained by the police immediately after the accident. Thereafter, the respondent issued the show cause notice under Section 19(1) of the Act, after getting a report



8. With the above directions the Writ Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

krk

To

The Regional Transport Officer,
Office of the Regional Transport Authority,
Government of Tamil Nadu,
Sholhinganallur Zone,
Chennai - 600 041.

+1cc to Mr.S.Sakthivel, Advocate, S.R.No.9258
+1cc to the Government Pleader, S.R.No.9565

W.P.No.28325 of 2021

PMK (CO)
PM/24/02/2022