



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2022

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) No.4419 of 2022

and

W.M.P. (MD) No.3728 of 2022

C.Senthilkumar

.. Petitioner

Versus

1. The Regional Transport Officer,
The Regional Transport Office (East),
Trichy.

2. The Regional Transport Officer,
The Regional Transport Office,
Kumbakonam.

3. Inspector of Police,
Thiruvarambur Police Station,
Thiruvarambur, Trichy.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent relating to his impugned order dated 18.02.2022, passed in Se.Mu.Aa.No.1345/B3-2021, quash the same and consequently, direct the respondents 1 and 2 to return the driving licence of the petitioner without any remarks, award cost.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.K.S.Selvaganesan

Additional Government Pleader

ORDER

The petitioner has challenged the impugned order of the first respondent, dated 18.02.2022, suspending the petitioner's driving licence on account of the petitioner's involvement in a road accident, resulting in the death of a motorcyclist on 26.01.2022.

2.The impugned order is sought to be assailed by placing reliance on a decision of the Division Bench of this Court in **P.Sethuram vs. The Licensing Authority, The Regional Transport Officer, Dindigul** reported in **2010 Writ L.R. 100**. A specific reference was made to Paragraphs 9 to 12 of the said order, which



''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 from the police. Therefore the impounding of the licence has actually preceded the issue of show cause notice.

10. Apart from the above, there is no allegation, either in the notice or in the order impugned in the writ petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1), under which the case of the appellant would fall.

11. The respondent has, in the impugned order, pre-concluded the issue that the appellant is guilty of rash and negligent driving, even before the Criminal Court or the Motor Accident Claims Tribunal went into the issue. Even to invoke Section 19(1)(c), it is necessary to show that the Motor Vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to be passed after due application of mind.

12. In view of the above, the Writ Appeal is allowed, the order of the learned Judge is set aside and the writ petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not preclude the respondent from initiating any action, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, arises later or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated. No costs. Consequently, connected miscellaneous petition is closed.''



3. Opposing the prayer, the learned Additional Government Pleader for the respondents submits the petitioner was involved in an accident and therefore, a show cause notice was issued prior to the impugned order. It is submitted that the petitioner's name has been arrayed as an accused in Crime No.32 of 2022, dated 27.01.2022, for an offence under Section 304-A of I.P.C. It is submitted that the petitioner has replied, which has been disposed, vide the impugned order and therefore, the petitioner has alternate remedy under Section 19(3) of the Motor Vehicles Act, 1988. It is therefore submitted that the Writ Petition is liable to be dismissed.

4. The learned Additional Government Pleader for the respondents further submits that the reliance placed on a decision of the Division Bench of this Court in **P.Sethuraman's case** [supra] is no longer relevant inasmuch as no notice was issued in the aforesaid case. In the aforesaid case, the licence was impounded immediately after the accident. It is further submitted that in the aforesaid case, there is no allegation either in the notice or in the impugned order that the appellant therein was a habitual criminal or a habitual drunkard so as to attract clause (a) to Section 19(1) of the Motor Vehicles Act, 1988.

5. I have heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the show cause notice, dated 29.01.2022 and the F.I.R. lodged against the petitioner in Crime No.32 of 2022, dated 27.01.2022.

6. The involvement of the petitioner in the accident is not disputed. The petitioner has been issued with a show cause notice after the F.I.R. came to be lodged against him. The decision of the Division Bench of this Court in **P.Sethuraman's case** [supra] cannot be applied to the facts of the present case, inasmuch as the facts on record indicate that the F.I.R. clearly brings out the allegation against the petitioner. The licence has been suspended after due process of law. There is no material irregularity in the process adopted before suspending the petitioner's driving licence. Further, the scope of Article 226 of the Constitution is limited to the procedure involved in decision making process. Since there is no material irregularity while passing the impugned order and considering the fact that the petitioner has alternate remedy under Section 19(3) of the Motor Vehicles Act, 1988, I am inclined to dismiss this Writ Petition with liberty to the petitioner to approach the appropriate authority under Section 19(3) of the Motor Vehicles Act, 1988.



7. This Writ Petition stands dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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To

1. The Regional Transport Officer,
The Regional Transport Office (East),
Trichy.
2. The Regional Transport Officer,
The Regional Transport Office,
Kumbakonam.
3. The Inspector of Police,
Thiruvarambur Police Station,
Thiruvarambur, Trichy.

+1 CC to M/s.SPL GP (SR-12190[F] dated 15/03/2022)

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USK/22.03.2022/4P/5C