



W.A.(MD)No.320 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.320 of 2022
and
C.M.P(MD)No.3161 of 2022

C.Senthil Kumar

... Appellant

Vs.

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.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent, to set aside the order dated 14.03.2022 passed in W.P(MD)No.4419 of 2022.

For Appellant :Mr.S.Arunachalam

For Respondents :Mr.N.Satheeshkumar,
Additional Government Pleader



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JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This writ appeal is preferred as against the order of the learned single Judge dismissing the writ petition filed by the appellant in W.P(MD)No.4419 of 2022 by order, dated 14.03.2022.

2. The appellant/writ petitioner is a Driver in the Tamil Nadu State Transport Corporation(Kumbakonam) Limited and when he was allotted duty on 25.01.2022 to drive the bus bearing Registration No.TN 68 N 1023, which is running from Kumbakonam to Coimbatore via Trichy and Karur, there was an unexpected accident and in which, a rider of the two-wheeler fell down and the bus driven by the appellant ran over him. Thereafter, an F.I.R was registered on the file of Thirvarambur Police Station in Crime No.33 of 2022 for the offence under Sections 279 and 304(A) of I.P.C, alleging that the above accident was caused due to the rash and negligent manner in which the appellant drove the bus.



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3. The specific case of the appellant is that the third respondent police seized his driving licence and handed over the same to the Motor Vehicles Inspector, who in turn, gave it to the first respondent. It is also the specific case of the appellant that the first respondent declined to return his driving licence when he approached the first respondent and requested to return the driving licence. Thereafter, a show-cause notice, dated 29.01.2022, was issued to the appellant asking him to give his explanation as to why his driving licence should not be suspended under Section 19(1)(d)(f) of the Motor Vehicles Act, 1988(hereinafter referred to as 'the Act'). Thereafter, the appellant appeared before the first respondent on 03.02.2022 and submitted his explanation, dated 03.02.2022. However, the first respondent passed the impugned order suspending the appellant's driving licence under Section 19(1)(d) and (f) of the Act for a period of six months ie., from 27.01.2022 to 26.07.2022.

4. Stating that the impugned order is passed without conducting enquiry and without considering the explanation/representation of the appellant, the writ petition came to be filed. However, the writ petition was dismissed with liberty to the appellant to avail the alternate remedy under Section 19(3) of the Act. Challenging the order of the learned single Judge



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dismissing the writ petition, the above writ appeal is filed.

5. In similar circumstances, a Division Bench of this Court earlier in the case of *P.Sethuraman vs. Licencing Authority, the Regional Transport Officer, the Regional Transport Office, Dindigul* reported in *2010 Writ L.R.100*, has held as follows:

'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(a) 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 from the police. Therefore the impounding of the licence has actually preceded the issue of showcause notice.

10. Apart from the above, there is no allegation,



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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



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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.''

6. It is to be noted in this case that driving licence of the appellant was taken from him by the police and it is now handed over to the first respondent. When he approached, the first respondent refused to hand over the licence to him. Therefore, driving licence of the appellant was literally impounded even before an adjudication. That apart, the show-cause notice issued to the appellant clearly indicates that the appellant was not called upon to answer any specific allegation against him so as to suspend the licence as contemplated under Section 19(1) of the Act.

7. This Court is of the view that there is violation of principles of natural justice inasmuch as the appellant was found guilty of a cognizable offence warranting revocation of licence without even alleging the nature of misconduct or irregularity in the show-cause notice. There is total non-



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application of mind. Merely by repeating the provisions of any clause under Section 19(1) of the Act, the authorities cannot suspend the licence of a driver as Section 19 of the Act, contemplates revocation of licence even before verdict by criminal Court. Without there being a *prima facie* evidence or verifiable material against the appellant and without subjective satisfaction, as a quasi judicial authority, the first respondent has proceeded to revoke the licence mechanically by repeating the words of statutory provision. Therefore, the order of the learned single judge dismissing the writ petition giving liberty to the appellant/writ petitioner to avail alternative remedy, is not sustainable.

8. Therefore, the writ appeal is allowed and the order of the learned single Judge, dated 14.03.2022, is set aside. Consequently, the writ petition is allowed and the impugned order, dated 18.02.2022, passed by the first respondent suspending the appellant's licence for a period of six months, is set aside. The driving licence shall be handed over to the petitioner. However, it is open to the first respondent to proceed further either under Section 19(1) or any of the provisions under the Act. No Costs. Consequently, connected Miscellaneous Petition is closed.



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[S.S.S.R., J.] [S.S.Y., J.]
04.07.2022

Index : Yes / No
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Note: Issue Order Copy on 06.07.2022

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.

S.S.SUNDAR, J.
and
S.SRIMATHY, J.

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