



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2022

C O R A M

THE HONOURABLE **MR. JUSTICE M. NIRMAL KUMAR**

W.P(MD).No. 12345 of 2022

B.Alagumani

... Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Office,
Thanjavur.

2.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.

... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuing a Writ of Mandamus directing the 1st respondent forthwith return the petitioner's driving license bearing No.TN 60 - 19970001877 forthwith in order to protect the livelihood of the petitioner based on the petitioner's representation, dated 22.05.2022 within the stipulated time that may be fixed by this Court.

For Petitioner	: Mr. A. Balaji
For respondent	: Mr.P. Subbaraj Special Government Pleader

ORDER

This Writ Petition has been filed for issuing a direction to the 1st respondent forthwith to return the petitioner's driving licence bearing No.TN 60 - 19970001877 forthwith in order to protect the livelihood of the petitioner, based on the petitioner's representation, dated 22.05.2022 within the time stipulated by this Court.

2. The case of the petitioner is that he is a Driver in the Tamil Nadu State Transport Corporation. On 07.05.2022, he was allotted the bus bearing Registration No.TN58 N 2500 flying between Usilampatti to Nagapattinam. The bus had proceeded and reached Thanjavur at about 5.50 p.m., and thereafter, left Thanjavur and proceeded to Nagapattinam. When the bus was nearing Arulmigu Mariamman Koivl, the petitioner attempting to overtake an Auto and thereby, hit the two wheeler grazed the right side body of the bus and that the accident occurred. The victim was admitted in the Government Hospital, Thanjavur latter succumbed and thereafter, a case has been registered in Crime No.318 of 2022 for the offences under Sections 304(A) IPC. The petitioner's driving licence was retained by the police on the same day and thereafter, the second



respondent had seized the same.

3. The learned Special Government Pleader appearing for the respondents would submit that the petitioner involved in the road accident, whereby, one person was died and the criminal case has been registered against him in Crime No.318 of 2022 for the offences under Sections 304(A) IPC. He would further submit that the petitioner now involved in a cognizable offence case and his licence has been retained as per Section 19(C) of the Motor Vehicles Act.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

5. Upon hearing of the learned counsels on either side, it appears that the petitioner is a Driver of the Tamilnadu State Transport Corporation and involved in an accident on 07.05.2022. Thereafter, FIR was registered against him and the first respondent seized the driving licence of the petitioner. Though the petitioner made a representation on 22.05.2022 to return the licence, the first respondent failed to return the same.

6. This Court finds that retention of the licence of the petitioner is improper and without issuing any show cause notice to the petitioner, the driving licence was seized and till date, it is retained by the first respondent without any authority. At this juncture, this Court would like to extract the relevant portion of the judgment of the Hon'ble Division Bench of this Court in W.A. (MD) No.176 of 2009 dealing with the powers of the authorities to impound the driving licence as below:-

'5. Therefore the question that falls for consideration in this appeal is as to whether the respondent has a power to impound the driving licence of a person involved in a road traffic accident.

6. 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 specific 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.

7. Obviously, Sections 20 and 22 are not applicable to the case on hand, since the action impugned in the writ petition did not arise out of the disqualification ordered by a Court. There is no allegation that the appellant was previously convicted for an offence under Section 184. Therefore, Section 21 also has no application to the case on hand. Consequently, the only provision to which the respondent could restore to, is Section 19.

8. Section 19 of the Motor Vehicles Act, 1988, reads as follows:-

"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



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(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 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 sub-section (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."

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9.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.

10.But in the case on hand, the licence of the appellant has been impounded or retained by the respondent, immediately after the accident on 18.3.2009. Admittedly, the show cause notice was issued only on 28.4.2009. Therefore, it is clear that the driving licence was retained, both without an order in writing and without affording an opportunity of being heard to the appellant. This is a clear violation of the provisions of the statute and hence the order of the learned Judge, dismissing the writ petition deserves to be set aside."

7. On a perusal of the above judgment, it would reveal that the Authorities have no power to impound the driving licence, but they can take action for cancellation of licence. But, in the present case, without conducting any enquiry, the driving licence was impounded. In the event of conducting enquiry, the 1st respondent shall pass appropriate orders on the representation of the petitioner, dated 22.05.2022, within a period of 15 days from the date of receipt of a copy of this order.

8.With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Trp



TO:

1.The Regional Transport Officer,
The Regional Transport Office,
Thanjavur.

2.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.

+1 CC to M/s.A. BALAJI, Advocate (SR-26359[F] dated 17/06/2022)

+1 CC to M/s.SPL.GP (SR-26735[F] dated 20/06/2022)

W.P (MD) .No. 12345 of 2022
17.06.2022

RD(21.06.2022) 6P 5C