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W.P(MD).No.24071 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.24071 of 2022

and

W.M.P(MD).No.18177 of 2022

P.Selvinkumar

... Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Office,
Nagercoil,
Kanniyakumari.

2.The Inspector of Police,
Aralvoimozhi Police Station,
Kanniyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st Respondent to return the Petitioner's original driving licence within a time limit that may be fixed by this Court.

For Petitioner	: Mr.G.M.Xavier
For R1	: Mr.M.Prakash Additional Government Pleader
For R2	: Mr.R.M.Anbunithi Additional Public Prosecutor



ORDER

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This Writ Petition is filed praying for a mandamus directing the 1st Respondent to return the original driving license No.TN7419950004161 of the Petitioner forthwith.

2. Mr.M.Prakash, learned Additional Government Pleader, takes notice for the 1st Respondent and Mr.R.M.Anbunithi, learned Additional Public Prosecutor, takes notice for the 2nd Respondent .

3. The question that falls for consideration in this petition is as to whether the 1st Respondent has a power to impound the driving licence of a person involved in a road traffic accident.

4. The learned counsel for the Petitioner submitted that on 01.10.2022, the bus, driven by the Petitioner herein, was involved in a road traffic accident resulting in death of a person. Pursuant to which, an FIR in Crime No.295 of 2022 came to be registered by the 2nd Respondent Police for offences under Sections 304(A) of IPC. Thereafter, on 01.10.2022, the Petitioner was directed to appear in the 2nd Respondent Police Station with original driving licence. On that day, the Petitioner's license was seized by the 2nd Respondent



Police and handed over to the 1st Respondent. Thereafter, on 02.10.2022, the Petitioner approached the Office of the 1st Respondent and submitted a representation for return of his driving license, which is stated to be denied. Hence, the present Writ Petition.

5. The learned counsel for the Petitioner submits that the Petitioner was not given any show cause notice nor any enquiry conducted. The Petitioner was not involved in any accident previously. It is submitted by the learned counsel for the Petitioner that the question that is raised in this Writ Petition stands resolved by a Division Bench of this Court in W.A.No.176 of 2009 and the said judgment is being followed consistently by this Court. It may be relevant to refer to the following portions of the said judgment, which reads as under:

"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.



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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.



6. This Court finds that inasmuch as admittedly neither any show cause notice nor an enquiry having been made, the retention of the license is illegal, in view of the order of the Division Bench of this Court (*supra*). Hence, the 1st Respondent is directed to return the driving licence of the Petitioner, within a week from the date of receipt of a copy of this order. However, it shall not preclude the 1st Respondent from proceeding further with the proceedings



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already initiated, if any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Motor Vehicles Act, 1988 has arisen or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1) (f) are violated.

7. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2022

Index : Yes / No
Internet : Yes/ No
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To

1.The Regional Transport Officer,
The Regional Transport Office,
Nagercoil,
Kanniyakumari.

2.The Inspector of Police,
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MOHAMMED SHAFFIQ, J.

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