



W.P.(MD)No.26419 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.26419 of 2022

and

W.M.P.(MD)No.20604 of 2022

Alagarsamy

... Petitioner

Vs.

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

2. The Inspector of Police,
Saathur Polcie Station,
Virudhunagar District.

....Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st Respondent to return the Petitioner's original driving license bearing DL No.TN 67 19970001896 to the Petitioner by considering the representation of the Petitioner dated 11.11.2022 forthwith.



W.P.(MD)No.26419 of 2022

WEB COPY

For Petitioner : Mr.R.Maheswaran
For Respondents : Mr.M.Ramesh
Government Advocate for R1
Mr.R.M.Anbunithi
Additional Public Prosecutor for R2

ORDER

This Writ Petition has been filed praying for a Writ of Mandamus to direct the Respondents to return the Petitioner's original driving license bearing DL No.TN 67 19970001896 forthwith.

2. Mr.M.Ramesh, learned Government Advocate, takes notice for the 1st Respondent and Mr.R.M.Anbunithi, 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.



W.P.(MD)No.26419 of 2022

WEB COPY

4. The learned counsel for the Petitioner submitted that on 19.10.2022, 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.178 of 2022 came to be registered by the 2nd Respondent Police for offences under Sections 279 and 304(A) IPC. Thereafter, the Petitioner's license was seized by the 2nd Respondent and the same was handed over to the 1st Respondent.

5. The learned counsel for the Petitioner further submitted that the Petitioner was issued with a show cause notice dated 04.11.2022 and on receipt of the same, the Petitioner has submitted a representation dated 11.11.2022 and the same is pending consideration. It is further submitted by the learned counsel for the Petitioner that the question that is raised in this Writ Petition stands covered 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:



WEB COPY



W.P.(MD)No.26419 of 2022

"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



WEB COPY



W.P.(MD)No.26419 of 2022

(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, 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



W.P.(MD)No.26419 of 2022

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.'

6. Furthermore, it may also be useful to refer to the order of this Court in W.P.(MD)No.5635 of 2021, wherein, the impounding of licence in similar circumstances is unsustainable and the same was held as under:

“.....That apart when neither the Criminal Court nor the Claims Tribunal have pronounced on the guilt of the petitioner, the second respondent has chosen to prejudge the issue. The petitioner was also not given any opportunity of personal hearing, though it is specifically contemplated by Section 19(1) of the Motor Vehicles Act, 1988.

7. This Court finds that the show cause notice was issued after impounding the licence which was held to be impermissible by the Division Bench of this Court. In view of the same, 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 already



W.P.(MD)No.26419 of 2022

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 after affording opportunity to the Petitioner in the manner contemplated under Section 19 of the Motor Vehicles Act.

8. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

23.11.2022

Index : Yes / No

Speaking Order : Yes / No

vji

Note: Issue order copy by 29.11.2022



WEB COPY



W.P.(MD)No.26419 of 2022

To

1. The Regional Transport Officer,
Regional Transport Office,
Virudhunagar.
2. The Inspector of Police,
Saathur Polcie Station,
Virudhunagar District.



WEB COPY



W.P.(MD)No.26419 of 2022

MOHAMMED SHAFFIQ, J.

vji

**W.P.(MD)No.26419 of 2022
and
W.M.P.(MD)No.20604 of 2022**

23.11.2022