

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6404 OF 2022

**JIJAI MOTOR DRIVING SCHOOL JALNA THROUGH ITS
DIRECTOR DEELIP MAROTI SHINDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...
Advocate for the Petitioner : Shri Nagargoje Ankush N.
AGP for Respondents 1 to 5/State : Shri S.G. Karlekar
...

**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 07th June, 2023

Per Court :-

1. After having considered the brief submissions of the learned Advocate for the Petitioner and the learned AGP on behalf of the Respondents, there remains no controversy as regards the order dated 17.03.2021 passed by the Regional Transport Officer (R.T.O.), Aurangabad, concluding that the Motor Driving School Licence of the Petitioner, whose application was filed on 14.02.2017 with the last date of the earlier tenure being 25.11.2019, has been renewed w.e.f.

26.11.2019 until 25.11.2024. We are not going into the aspect as regards the Petitioner having not furnished appropriate documents prior to the last date of the earlier tenure, which is 25.11.2016. As such, this issue is put to rest.

2. Insofar as the act of the RTO, Aurangabad, in not granting the Permanent Driving Licence to such candidates, none of such candidates are before us. There is no dispute that the Motor Driving Schools have to be registered with the RTO and after registering the students and imparting them with theoretical and practical knowledge/training, their applications are to be tendered to the RTO through such Motor Driving Schools. It is also undisputed that once such applications are processed for seeking the Permanent Driving Licences, the RTO conducts an actual driving test of such students and if such students are found to be lacking in any area, which would materially affect the grant of Permanent Motor Driving Licence, the RTO is within its powers as per the Rules in refusing the Permanent Driving Licences to such students. In this backdrop, the Motor Driving School does not have any locus to espouse the cause of the students only because they have failed the Permanent Driving Licence test. It is the students, who have to be aggrieved by such

refusal.

3. The Honourable Supreme Court has held in **V.J. Thomas vs. Pathrose Abraham and others, (2008) 5 SCC 84**, that Order I Rule 8 would be applicable if the suit is ordinarily premised on the ground that the Defendants represent the parties interested in the suit. Paragraph 13 reads as under:-

“13. *A suit filed in terms of Order I Rule 8 should ordinarily be premised on the ground that the defendants represent the parties interested in the suit. The defendants in such a suit, although, must be able to represent the public in general, but no personal decree can be passed against them. To what extent the original defendants were interested in the suit property at least in respect of the portion thereof is not known.*”

4. In **Hari Ram vs. Jyoti Prasad and another, (2011) 2 SCC 682**, the Honourable Supreme Court concluded that a representative suit would be a suit filed by a person being an aggrieved party himself. It has to be filed by an aggrieved person. It was further held, by placing reliance on **Kalyan Singh vs. Chhoti, (1990) 1 SCC 266**, that a suit could be instituted by a representative of a particular community, but that by itself was not sufficient to constitute the suit as in representative capacity.

5. In the light of the above, the present Writ Petition

filed by the Motor Driving School, which has no legal obligation to ensure or assure the students of a Permanent Driving Licence, cannot be in the representative capacity for espousing the cause of it's students, some of whom have failed in the driving test and many of them have succeeded and received the Driving Licences. Order I Rule 8 of the Code of Civil Procedure would, therefore, not apply.

6. The learned AGP submits that during the pendency of this petition, the Motor Driving School Licence of the Petitioner has been cancelled under Rule 28 of the Central Motor Vehicles Rules, 1989, for glaring deficiencies and misdeeds. An appellate remedy is available. So also, if any student is deprived of Permanent Driving Licence on account of having failed the test, such student also has an appellate remedy for espousing his/her cause. The Appellate Authority in both such cases is the Transport Commissioner.

7. The learned Advocate for the Petitioner clarifies that the petition has been filed because some of his students have not been granted the Driving Licences. We find that there is no order, which can be said to be impugned, in this petition, in as much as, the Petitioner has no locus to represent it's students for a

purported cause of action, which is personal to the students.

8. In view of the above, this **Writ Petition is disposed off.**

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)