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W.P. No. 35653 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 35653 of 2023

and

W.M.P. Nos. 35621, 35623 and 35624 of 2023

M. Ramachandran

... Petitioner

-VS-

1. The Inspector of Police,
Sastri Nagar Police Station,
Adyar, Chennai.
2. The Regional Transport Officer,
Licensing Authority,
Office of the Regional Transport Authority,
RTO, Chennai (South),
Thiruvanmiyur, Tamil Nadu.
3. The Regional Transport Officer,
Licensing Authority,
Office of the Regional Transport Authority,
RTO, Chennai (North),
No.9, Inner Ring Road,
Sastri Nagar, Kolathur,
Chennai 600 099.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 01.12.2023 passed by the second respondent in Show Cause Order No.TN07/2023/1154 quash the same and



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consequently, direct the third respondent to return forthwith the petitioner original license bearing No. TN01 19850002848 without any endorsement.

For Petitioner : Mr. S. Sakthivel

For Respondents : Mr. S. Rajkumar (R1)
Additional Public Prosecutor

Mr. S. Arumugam (R2 and R3)
Government Advocate

ORDER

Heard Mr. S.Sakthivel, Learned Counsel for the Petitioner, Mr. S. Rajkumar, Learned Additional Public Prosecutor appearing for the First Respondent and Mr. S. Arumugam, Learned Government Advocate appearing for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is a driver in the Tamil Nadu State Transport Corporation (Pallavan) Limited and while on duty, the bus bearing Registration No. TN-01-AN-0214 driven by him had on 14.09.2023 met with an accident and his driving licence was seized by the First Respondent, who is investigating that accident, and forwarded to the Second Respondent, as the Licensing Authority,



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who without issuing Show Cause Notice, passed a final order dated 01.12.2023, suspending the driving license of the Petitioner for the period from 19.09.2023 to 18.03.2024 (5 months and 28 days) under Section 19 (1) (d) and (f) of the Motor Vehicles Act, 1988 read with Rule 21 of the Central Motor Vehicles Rules, 1989. In that backdrop, relying on the decision of the Division Bench of this Court in ***P.Sethuram -vs- Licensing Authority, Regional Transport Officer, Dindigul*** (2010 WLR 100) holding that the provisions of the Motor Vehicles Act, 1988, (hereinafter referred to as 'the Act' for short) do not empower the Licensing Authority to suspend or revoke a driving licence for a first offence, the Petitioner has filed this Writ Petition.

3. Learned Government Advocate appearing for the Second and Third Respondents submits that certain amendments have been made to the Act, which have come into force from 01.09.2019 onwards and clause (4) in Section 206 and clause (1-A) in Section 19 have been inserted to the Act, which have bearing to the contentions raised in the Writ Petition and read as follows:-

"206. Power of police officer to impound document:-

....

(4) A police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the



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driver of a motor vehicle has committed, an offence under any of Sections 183, 184, 185, 189, 190, 194-C, 194-D or 194-E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under Section 19:

Provided that the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgement therefor, but such acknowledgement shall not authorise the holder to drive until the licence has been returned to him."

"19. Power of licensing authority to disqualify from holding a driving licence or revoke such licence:-

....

(1-A) Where a licence has been forwarded to the licensing authority under sub-section (4) of Section 206, the licensing authority, if satisfied after giving the holder of the driving licence an opportunity of being heard, may either discharge the holder of a driving licence or, it may for detailed reasons recorded in writing, make an order disqualifying such person from holding or



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obtaining any licence to drive all or any class or description of vehicles specified in the licence:-

- (a) for a first offence, for a period of three months;*
- (b) for a second or subsequent offence, with revocation of the driving licence of such person:*

Provided that where a driving licence is revoked under this Section, the name of the holder of such driving licence may be placed in the public domain in such manner as may be prescribed by the Central Government."

It is submitted that in view of the same, the lacunae highlighted by the Division Bench of this Court no longer exists, and the impugned action of seizing the driving licence of the driver of the vehicle involved in an accident by the Police Officer and forwarding it to the Licensing Authority, now has statutory backing and as such, that decision of the Division Bench of this Court would not have any applicability in cases where the accident has occurred after the amendments to the Act have come into force, as in the present one. It is also informed that pursuant to the recommendations made by the Committee on Road Safety appointed by the Hon'ble Supreme Court of India, without issuing Show Cause Notice, the Licensing Authority by Proceedings in Show Cause No. TN07/2023/1154 dated 01.12.2023 has suspended the driving licence of the Petitioner



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for the period from 19.09.2023 to 18.03.2024 (5 months and 28 days), which is challenged in this Writ Petition.

4. On the contrary, Learned Counsel for the Petitioner contends that as the driving licence was issued to the Petitioner by the Third Respondent, he would only have jurisdiction to suspend it and the order passed by the Second Respondent is without jurisdiction. That apart, it is contended that the impugned order has been passed without issuance of any show cause notice in violation of principles of natural justice and that it has been purported to have been made under clauses (1)(d) and (f) in Section 19 of the Act read with Rule 21 of the Central Motor Vehicles Rules, 1989, and not in the exercise of power conferred by clause (1-A) in Section 19 of the Act. He further contends that even in clause (1-A) in Section 19 of the Act, the Licensing Authority has been empowered to disqualify a person from holding driving licence for a first offence for a period of three months, and the suspension of licence for a period exceeding that limit is without jurisdiction and the Licensing Authority would have to return the driving licence to the Petitioner. He also submits that the Petitioner had made a representation dated 14.10.2023 to the Second Respondent in that regard, which has not been reflected in the impugned order dated 01.12.2023. It is further pleaded that on account of seizure of the driving

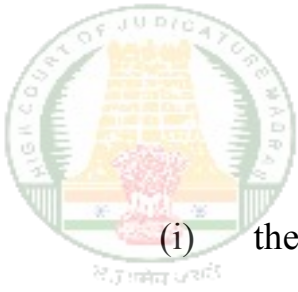


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licence, the Petitioner is out of employment and any further delay in returning his driving licence causes hardship for his livelihood, which cannot be countenanced.

5. As regards the contention of the Petitioner that his reply to the show cause notice was not considered by the Second Respondent, a reading of the impugned order also shows that as if the Petitioner has not submitted his explanation. In such circumstances, it could be inferred that the impugned order has been passed without even referring to the representation said to have been made by the Petitioner. That apart, as rightly contended by Learned Counsel for the Petitioner, the maximum period of suspension could be three months from the date of seizure of the driving licence and cannot be imposed beyond that period. Further, it is incumbent upon the Second Respondent to determine as to whether he has jurisdiction to suspend the driving licence issued to the Petitioner by the Third Respondent.

6. In view of the foregoing discussion, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-



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(i) the impugned Order in Show Cause No. TN07/2023/1154 dated

01.12.2023 passed by the Second Respondent is set aside;

(ii) it shall be incumbent upon the Second Respondent to consider the representation dated 14.10.2023 made by the Petitioner as response to the show cause notice sent to him;

(iii) if any other details or supporting documents are necessary, the deficiencies in that regard shall be informed in writing by the Second Respondent to the Petitioner requiring the same to be furnished within two clear working days from the date of its receipt by him;

(iv) an enquiry shall be conducted thereafter affording full opportunity of personal hearing to the Petitioner to explain his position in that regard;

(v) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;

(vi) in the event that the Second Respondent is not able to pass final orders within the period of three months from the actual date of seizure of the driving licence of the Petitioner by the First Respondent, the driving licence of the Petitioner shall be then forthwith returned to him with endorsement to the effect that the Petitioner shall not be precluded from driving the vehicles for which he is otherwise authorized from that date



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onwards, subject to the result of the proceedings in which final orders

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- (vii) the Second Respondent shall file report of such compliance before the Registrar (Judicial) of the Court.

In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

21.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 07.05.2024.

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To

1. The Inspector of Police,
Sastri Nagar Police Station,
Adyar, Chennai.
2. The Regional Transport Officer,
Licensing Authority,
Office of the Regional Transport Authority,
RTO, Chennai (South),
Thiruvanmiyur, Tamil Nadu.
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Chennai 600 099.



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Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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