



W.P. (MD) No. 1052 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P. (MD) No. 1052 of 2023

Kesavan

... Petitioner

Vs.

1. The Regional Transport Officer,
Regional Transport Office,
Paramakudi,
Ramanathapuram District.

2. The Inspector of Police,
Paramakudi Taluk Police Station,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Mandamus, directing the Respondents forthwith return the Petitioner's Original Driving license in order to protect the livelihood of the petitioner in TN6519910001898, based on the petitioner's representation dated 09.01.2023, within a stipulated time that may be fixed by this Court.



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For Petitioner : Mr. R.Senthil Kumar
For Respondents : Mr. K.S.Selva Ganesh
Additional Government Pleader for R1
Ms.M.Aasha
Government Advocate (Crl.Side) for R2

ORDER

Heard Mr. R.Senthil Kumar, Learned Counsel for the Petitioner, Mr. K.S.Selva Ganesh, Learned Additional Government Pleader appearing for the First Respondent and Ms. M.Aasha, Learned Government Advocate (Crl.Side) for the Second Respondent and perused the materials placed on record apart from the pleadings of the parties.

2. The Writ Petition has been filed for directing the Respondents to return the original driving license of the Petitioner which had been seized on 20.11.2022 when the vehicle bearing registration no. TN 63 N 1827 driven by him met with an accident, in which four persons had died. According to the Petitioner, the Second Respondent, who is investigating the accident had seized the driving licence of the Petitioner and forwarded it to the First Respondent, who is the Licensing Authority, and the Petitioner had made



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representation dated 09.01.2023 to return the same, but as no action has been taken thereon, he has filed this Writ Petition.

3. Learned Additional Government Pleader appearing for the First Respondent has brought to notice that following the recommendations made by the Committee on Road Safety appointed by the Hon'ble Supreme Court of India (F. No. 05/2014/CoRS-Part-III dated 18.08.2015), show cause notice dated 11.01.2023 has been sent today to the Petitioner, who would have to submit his explanation for the same within a period of ten days from the date of its receipt, and thereafter orders would be passed by the First Respondent in the matter.

4. At this juncture, it must be noticed that certain amendments have been made to the Motor Vehicles Act, 1988, (hereinafter referred to as 'the Act' for short), which have come into force with effect 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:-

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



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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 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 evident on plain reading of the said provisions that the Licensing Authority has to record detailed reasons in writing after giving opportunity of personal hearing to the concerned holder of the driving licence for having arrived at the conclusion to either discharge or disqualifying him from holding the driving licence. That apart, on a conspectus analysis of clause (4)



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of Section 206 of the Act, which mandates that after seizure of licence by the Police Officer, its holder shall not be authorized to drive until it had been returned to him, and clause (1-A)(a) of Section 19 of the Act, which envisages disqualifying a person from holding a licence to drive vehicles for a first offence for a period of three months, it would necessarily follow that in the event of the Licensing Authority arriving at the conclusion that penalty of suspension of licence has to be imposed for the first offence, it cannot be for a period beyond three months from the actual date on which the driving licence has been seized from its holder by the Police Officer after the occurrence of accident.

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

- (i) the Petitioner shall submit his explanation to the show cause notice dated 30.01.2023 issued to him within ten days from the date of its receipt;
- (ii) the Licensing Authority shall immediately consider the explanation submitted by the Petitioner for the show cause notice dated 30.01.2023 issued to him;



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- (iii) if any other details or supporting documents are necessary, the deficiencies in that regard shall be informed in writing by the Licensing Authority to the Petitioner requiring the same to be furnished within 2 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 First 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 Police Officer if it is the first offence, the driving licence of the Petitioner shall be then 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 onwards, subject to the result of the proceedings in which final orders would follow later; and
- (vii) the First Respondent shall file report of such compliance before the Registrar (Judicial) of the Court.



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In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

31.01.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

PKN

Note: Issue order copy by 15.02.2023.



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To

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P.D.AUDIKESAVALU,J.

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31.01.2023

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