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W.P. (MD) No. 1820 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.AUDIKESAVALU

W.P. (MD) No. 1820 of 2023

and

W.M.P. (MD) Nos. 1614 and 1615 of 2023

Mahendran

... Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Office,
Thirumangalam,
Madurai District.

2.The Inspector of Police,
Chekkanoorani Police Station,
Madurai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in TN58Z/2022/2411 dated 06.01.2023 quash the same and consequently direct the first respondent to drop the action against the petitioner.

For Petitioner : Mr. G.M.Xavier

For Respondents : Mr. D.Gandhiraj
Special Government Pleader



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ORDER

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Heard Mr. G.M.Xavier, Learned Counsel appearing for the Petitioner, Mr. D.Gandhiraj, Learned Special Government Pleader for the Respondents and perused the materials placed on record, apart from the pleadings of the Petitioner.

2. The Petitioner is a driver in the Tamil Nadu State Transport Corporation (Madurai) Limited, and while on duty, the bus bearing Registration No. TN-57-N-2367 driven by him had on 05.12.2022 met with an accident. The Police Officer, who is investigating that accident, had on 05.12.2022 collected the driving licence of the Petitioner and forwarded it to the First Respondent, who is the Licensing Authority. Thereafter, the Respondent issued a show cause notice dated 12.12.2022 for suspending the licence of the Petitioner 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), and by proceedings in Show Cause No. TN58Z/2022/2411 dated 06.01.2023 in exercise of powers conferred under Section 19(1)(d) and (f) of the Motor Vehicles Act, 1988



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(hereinafter referred to as 'the Act' for short) read with Rule 21 of the Central Motor Vehicles Rules, 1989, suspended the licence of the Petitioner for the period from 05.12.2022 to 04.06.2023 (5 months and 30 days), which is challenged in this Writ Petition.

3. The primordial attack on the impugned order by Learned Counsel for the Petitioner is that no opportunity of personal hearing has been afforded to the Petitioner before passing the impugned order entailing adverse civil consequences to him.

4. In this context, it must be noticed 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 that 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



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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 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



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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 a plain reading of the said statutory 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 disqualify him from holding the driving licence. There is nothing in the impugned order reflecting that any opportunity of personal hearing has been afforded to the Petitioner and no reasons have been explained by the Respondent for having arrived at the conclusion to suspend the driving licence of the Petitioner, it would vitiate the impugned order.



5. There is also substantial force in the contention of Learned Counsel for the Petitioner that the aforesaid statutory provisions empower the Licensing Authority to disqualify a person from holding a driving licence for a first offence, as in this case, only for a period of three months and that the Petitioner cannot be deprived of his right of holding the driving licence beyond that period of three months, which has to be computed from the date on which the driving licence has been seized from him, and in the present case, the imposition of the penalty of suspension of driving licence for the period from 05.12.2022 to 04.06.2023 (5 months and 30 days), is bad in law. On a conspectus analysis of clause (4) 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 obviously 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.



6. The upshot of the foregoing discussion is that the Writ Petition is disposed on the following terms:-

- (i) the impugned Order in Show Cause No. TN58Z/2022/2411 dated 06.01.2023 passed by the First Respondent is set aside and remitted to the First Respondent for fresh consideration of the matter;
- (ii) the First Respondent shall immediately consider the explanation dated 27.12.2022 submitted by the Petitioner for the show cause notice dated 12.12.2022 issued to him;
- (iii) if any other details or supporting documents are necessary, the deficiencies in that regard shall be informed in writing by the First 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 First Respondent is not able to pass final orders within the period of three months from the actual date of seizure of the



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driving licence of the Petitioner by the Police Officer, 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 onwards, subject to the result of the proceedings in which final orders would follow later;

- (vii) the First Respondent shall file report of such compliance by 28.02.2023 before the Registrar (Judicial) of the Court;
- (viii) consequently, the connected Miscellaneous Petitions are closed; and
- (ix) there shall be no order as to costs.

31.01.2023

Index : Yes/No

Internet : Yes/No

NCC : Yes/No

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Note : Issue order copy by 02.02.2023.



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P.D.AUDIKESAVALU,J.

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To

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Madurai District.
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