



W.P. (MD) No. 1412 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 1412 of 2023

and

W.M.P. (MD) No. 1302 of 2023

P.Muthuraj

... Petitioner

Vs.

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

2.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus after calling for the records from the 1st respondent relating to his impugned order dated 12.01.2023 passed in Show Cause No.TN95/2022/1953, quash the same and consequently direct the 1st respondent to return the driving license of the petitioner bearing D.L.No. TN 67 - U20110000882 without any remarks, award cost.



W.P. (MD) No. 1412 of 2023

For Petitioner : Mr. S.Arunachalam
For Respondents : Mr. K.S.Selvaganesan (for R1)
Additional Government Pleader
Mr. S.Manikandan (for R2)
Government Advocate (Crl. Side)

ORDER

Heard Mr. S.Arunachalam, Learned Counsel for the Petitioner, Mr. K.S.Selvaganesan, Learned Additional Government Pleader, who takes notice for the First Respondent and Mr. S.Manikandan, Learned Government Advocate, who takes notice for the Second Respondent 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, Sivakasi Branch, Virudhunagar District and while on duty, the bus bearing Registration No. TN-58-N-1123 driven by him had on 14.12.2022 met with an accident. According to the Petitioner, the Police Officer, who is investigating that accident, had seized the driving licence of the Petitioner and forwarded it to the First Respondent, who is the Licensing Authority. Thereafter, the First Respondent issued a show cause notice dated



W.P. (MD) No. 1412 of 2023

19.12.2022 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), but it was returned with the postal endorsement 'not claimed', and by proceedings in Show Cause No. File No. 55632/B1/2022 dated 14.12.2022 in exercise of powers conferred under Section 19(1)(d) and (f) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act' for short) read with Rule 21 of the Central Motor Vehicles Rules, 1989, the driving licence of the Petitioner was suspended for the period from 14.12.2022 to 14.03.2023 (3 months), which is challenged in this Writ Petition.

3. Learned Counsel for the Petitioner submits that though the show cause notice dated 19.12.2022 issued by the First Respondent to the Petitioner had been returned unserved, he could not be deprived of the opportunity of personal hearing 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 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:-



WEB COPY

....
(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 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. As 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. 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. TN95/2022/1953 dated 12.01.2023 passed by the First Respondent is set aside and remitted to the First Respondent for fresh consideration of the matter;
- (ii) the Petitioner shall submit his explanation to the show cause notice dated 19.12.2022 (the receipt of copy which has been acknowledged by Learned Counsel for the Petitioner) by 28.02.2023;
- (iii) the First Respondent shall immediately consider the explanation to be submitted by the Petitioner for the show cause notice dated 19.12.2022



W.P. (MD) No. 1412 of 2023

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 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;



W.P. (MD) No. 1412 of 2023

(vii) the First Respondent shall file report of such compliance by

WEB COPY

31.03.2023 before the Registrar (Judicial) of the Court;

(viii) consequently, the connected Miscellaneous Petition is closed; and

(ix) there shall be no order as to costs.

23.02.2023

NCC : Yes/No

Index : Yes/No

Sm/ta

Note:- Issue order copy by 24.02.2023.

To

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

2.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar,
Virudhunagar District.

Copy to:-

P.Muthuraj

S/o.Palchamy

4/94, North Street, Pernayakanpatti, Sithurajaburam Post,
Sivakasi Taluk, Virudhunagar District.

8/9



WEB COPY



W.P. (MD) No. 1412 of 2023

P.D.AUDIKESAVALU,J.

Sm/ta

W.P. (MD) No. 1412 of 2023

23.02.2023