



W.P.(MD)No.12799 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.06.2023

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THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.12799 of 2023
and
W.M.P.(MD).No.10807 of 2023

M.Murugesan

... Petitioner

Vs.

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

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

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the first respondent to return the petitioner's original driving license within a time limit.

For Petitioner :Mr.G.M.Xavier

For Respondents :Mr.J.John Rajadurai
Government Advocate



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ORDER

This writ petition has been filed seeking for a Mandamus directing the first respondent to return the petitioner's original driving license.

2. The learned counsel for the petitioner submit that the petitioner is a driver holding a Heavy Transport Vehicles license and he is employed with the Tamil Nadu State Transport Corporation, Madurai Limited. On 26.03.2023, the petitioner was assigned with the duty of driving the passenger transport bus in the following routes: Kumuli to Madurai to Periyakulam to Theni.

3. While he was undertaking the last trip starting from Arapalayam proceeding towards Periyakulam at about 09.45 p.m., the two wheeler, who proceeded in front of his bus suddenly applied brake without following the road rules. Therefore, the petitioner dashed against the two wheeler, as a result of which, the rider of the bike as well as the pillion rider



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died on the spot. Both of them were not wearing helmets. FIR came to be registered at the second respondent police station, where the petitioner was shown as the accused. On 28.03.2023, he was asked to appear before the second respondent along with his original driving license. Therefore, he had appeared and his license was seized by the Inspector of Police of the second respondent police station and handed over to the first respondent for further action under Section 19(1) of the Motor Vehicles Act. The petitioner would submit that no action was taken. The seizure of his driving license is illegal. Therefore, he filed this writ petition before this Court.

4. Today (05.06.2023), when the matter came up for admission, the learned Government Advocate would submit that on 13.04.2023, the license of the petitioner has been suspended and the proceedings were submitted for the scrutiny of this Court.

5. Heard the learned counsel appearing on either side.



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6. It is the specific case of the petitioner that in the affidavit filed in support of this writ petition that the second respondent had seized his driving license, he had not received any show cause notice from the first respondent. However, a perusal of the proceedings of the first respondent would indicate that a show cause notice was issued on 28.03.2023. On 28.03.2023, the petitioner was asked to be present before the second respondent along with his driving license and is not a show cause notice contemplated under Section 19(1) of the Motor Vehicles Act. That apart, only on 28.03.2023, the license had been handed over to the second respondent who, in turn, handed it over to the first respondent.

7. The accident has taken place on 26.03.2023. The second respondent had called upon the petitioner to appear before him on 28.03.2023 with the license. Although a show cause notice dated 28.03.2023 has been furnished on the side of the respondents, there is nothing to show that the petitioner has been served with the show cause notice. Even assuming without admitting that the petitioner has received a



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show cause notice, a mere perusal of the proceedings dated 13.04.2023 of the first respondent would clearly demonstrate the total non-application of the mind on the part of the first respondent. The operative portion of the order would read as follows:

I have perused all the records and averments came before me and found that there is no reason to exonerate the Driving Licence holder from the charges framed against him and convinced that he has committed the offences as alleged.

None of the grounds stipulated under Section 19(1) of the Motor Vehicles Act, is reflected in this order. That apart, the first respondent has already held the petitioner to be guilty without the investigation being concluded. However, taking note of the subsequent event and the fact that the proceedings does not conform to the provisions of Section 19(1) of the Motor Vehicles Act, the proceedings has to necessarily be set aside.



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8. Further, it is necessary to consider the decision of a Division Bench of this Court in ***P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, Dindigul*** reported in ***2010 Writ L.R. 100***, wherein a question was raised as to whether mere registration of a criminal complaint was enough to revoke a driving licence. The Bench considering Section 19(1) of the Motor Vehicles Act extensively, held as follows:

“8. A bare reading of Section 19(1) shows that the Licensing Authority has the power to revoke any licence or disqualify a person for a specified period from holding or obtaining a driving licence, if any of the contingencies prescribed in Clauses (a) to (h) of Sub Section (1) of Section 19 arises. Moreover, the power under Section 19(1) can be invoked only after giving an opportunity of being heard to the holder of the licence and for reasons to be recorded in writing.”

9. In the light of the above, the first respondent has no authority to retain the driving licence. For the above reasons, this Writ Petition is allowed. The impugned proceedings dated 13.04.2023 is set aside and the first respondent is directed to return the petitioner's original driving licence



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within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

05.06.2023

NCC :Yes/No

Index :Yes/No

sbn

To

- 1.The Regional Transport Officer,
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