



W.P.(MD) No.12437 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.12437 of 2023

P.Murugan

... Petitioner

Vs.

1.The Regional Transport Officer,
The Regional Transport Office (North),
Madurai.

2.The Inspector of Police,
Traffic Investigation Wing Police Station-II,
Madurai.

... 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 driving license bearing D.L.No.TN 59-19950002426 forthwith.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.D.Ghandiraj
Special Government Pleader



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ORDER

The above writ petition is filed for a mandamus directing the first respondent to return the petitioner's driving license bearing D.L.No.TN 59-19950002426.

2. It is the case of the petitioner that he had been issued with the above driving license on 28.04.1995. He has been working as Driver in the Tamil Nadu State Transport Corporation (Madurai) Limited with effect from 27.01.2012. He is now employed as Senior Driver with the Madurai Ellis Nagar Branch of the Corporation. On 05.05.2023, he was allotted to the work of plying the bus from Periyar Bus Stand to Vaikasipatti via Koodal Nagar, Sikkandar Chavadi, Alanganallur. It is his case that he had started his work for the day at 06.40 a.m., and he took the bus from the Periyar Bus Stand to Vaikasipatti and the return journey from Vaikasipatti to Periyar Bus Stand. When the bus had reached Koodal Nagar Bus Stop at about 08.20 p.m., on account of the underground drainage work, the road had been reduced to a one lane road. After Koodal Nagar bus stop, when he slowed down the bus at



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Anjal Nagar Bus Stop, just 50 metres before the stop, the conductor had blown the whistle and immediately the petitioner had slowed down, at which point in time, he had heard a noise and had immediately stopped the bus and when he looked, he found that two two wheelers lying behind the bus and a young man aged about 24 years was lying on the road and appeared to be injured. An ambulance was immediately called for and later it appears that the victim had died on the spot. Thereafter, FIR was registered for the accident and the petitioner was made an accused along with the driver of the two wheeler, which hit the two wheeler of the victim.

3. The petitioner would submit that the CCTV footage of nearby shop would reveal the true facts. He would further submit that on 10.05.2023, when he had produced his bus for inspection, the second respondent police had seized his driving licence and given to the Motor Vehicle Inspector, who in turn, had handed it over to the first respondent. On 17.05.2023, the petitioner had received the notice dated 12.05.2023 from the first respondent. The petitioner had sent a representation on



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18.05.2023 calling upon the first respondent to give the documents based upon which he had arrived at a conclusion that the petitioner was responsible for the accident and to return the licence. However, the licence was not returned to him. Therefore, the writ petitioner had come forward with the present writ petition for the relief stated supra. After filing of the writ petition, the petitioner has been served with the proceedings dated 19.05.2023 of the first respondent suspending the driving licence for the period of six months commencing from 05.05.2023 to 04.11.2023.

4. Heard the learned counsel appearing on either side.

5. Though the writ petition has been filed for a mandamus directing the first respondent to return the driving licence, however, since in the interregnum an order suspending the petitioner's licence has been issued and as the same is contrary to the provision of Section 19 of the Motor Vehicles Act, I am taking note of the subsequent events. Section 19 of the Motor Vehicles Act empowers the licensing authority to disqualify a



person from holding a driving licence or revoke the said licence. The said provision contains the contingencies under which the above power can be used which is set out in Clauses A to H of Sub Section 1 of Section 19 of the of the Motor Vehicles Act. The provisions of Section 19 of the Motor vehicles Act reads as follows:-

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

(1) If a licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard, that he—

(a) is a habitual criminal or a habitual drunkard; or (b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or (c) is using or has used a motor vehicle in the commission of a cognizable offence; or (d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public; or (e) has obtained any driving licence or a licence to drive a particular class or description of motor vehicle by fraud or misrepresentation; or (f) has committed any such act which is likely to cause nuisance or danger to the public, as may be prescribed



by the Central Government, having regard to the objects of this Act; or (g) has failed to submit to, or has not passed, the tests referred to in the proviso to sub-section (3) of section 22; or (h) being a person under the age of eighteen years who has been granted a learner's licence or a driving licence with the consent in writing of the person having the care of the holder of the licence and has ceased to be in such care, it may, for reasons to be recorded in writing, make an order—

(i) disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence; or (ii) revoke any such licence.

(2) Where an order under sub-section (1) is made, the holder of a driving licence shall forthwith surrender his driving licence to the licensing authority making the order, if the driving licence has not already been surrendered, and the licensing authority shall,—

(a) if the driving licence is a driving licence issued under this Act, keep it until the disqualification has expired or has been removed; or (b) if it is not a driving licence issued under this Act, endorse the disqualification upon it and send it to the licensing



authority by which it was issued; or (c) in the case of revocation of any licence, endorse the revocation upon it and if it is not the authority which issued the same, intimate the fact of revocation to the authority which issued that licence:

Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order, made under Sub Section (1), disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.(3) Any person aggrieved by an order made by a licensing authority under Sub Section (1) may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either party if so required by that party and may pass such order as it thinks fit and an order passed by any such appellate authority shall be final.”



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6. A reading of the above makes it clear that before invoking the power under Section 19(1) of the Act, opportunity of hearing has to be given to the holder of the licence and reasons in writing have to be provided. However, a perusal of the order of the first respondent dated 19.05.2023, which is produced today, does not reflect compliance of the provisions of Section 19(1) of the Act and neither does the proceedings indicate prior notice to the petitioner.

7. A Division Bench of this Court in the case of ***P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, Dindigul*** reported in ***2010 Writ L.R. 100***, was dealing with the similar issue, 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



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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.”

8. Therefore, taking into consideration the provision and the above judgment, it is clear that the respondents have exceeded the jurisdiction and therefore, the order dated 19.05.2023 passed by the first respondent has to necessarily be set aside. Further, the petitioner has not been held to be guilty of rash and negligent driving by criminal Court or by the Motor Accident Claims Tribunal. It is only the FIR that holds the petitioner guilty of rash and negligent driving. The proceeding dated 19.05.2023 proceeds to declare the petitioner to be guilty of the charges framed against him without there being any evidence in this regard. Therefore, viewing the proceedings from any angle it has to necessarily be set aside. Accordingly, the order dated 19.05.2023 passed by the



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first respondent is set aside and the writ petition is allowed directing the first respondent to hand over the driving licence to the petitioner within a period of four weeks from the date of the copy of the order. No costs.

01.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

- 1.The Regional Transport Officer,
The Regional Transport Office (North),
Madurai.
- 2.The Inspector of Police,
Traffic Investigation Wing Police Station-II,
Madurai.



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P.T.ASHA, J.

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