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W.P.No.523 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.523 of 2024
and
W.M.P.No.529 of 2024

K.Rajasekaran
M/s.Sri Saravana Driving School,
No.35, Sri Renuga Nagar, Mullipet,
Arani Taluk - 632316,
Tiruvannamalai District.

... Petitioner

Vs.

1. The Transport Commissioner,
Ezhilagam, Chepauk,
Chennai - 5.

2. The Licensing Officer/
Regional Transport Officer,
Arani.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorari, calling for the records of the first respondent
made in R.No.29241/HB1/2021 dated 15.02.2022, confirming the order



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of the second respondent made in R.No.25327/B3/2020-3 dated 23.11.2020, cancelling the petitioner's license for running the driving school and quash the same.

For Petitioner : Mr.M.Palani

For Respondents : Mr.M.Shahjahan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the 1st respondent in R.No.29241/HB1/2021 dated 15.02.2022, confirming the order passed by the second respondent in R.No.25327/B3/2020-3 dated 23.11.2020, cancelling the license of the petitioner for running driving school.

2. The case of the petitioner is that the petitioner is running a driving school and a book centre under the name and style of Sri Saravana On-line Booking Centre. In 2005, the 2nd respondent had granted license to run the driving school and the same was renewed periodically and the last renewal was for a period of 5 years from



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23.07.2020 to 22.07.2025. On 11.10.2019, some of the police personnels from the Vigilance and Anti Corruption Wing came to the office of the on-line booking centre of the petitioner and made a search and seized a sum of Rs.58,750/-. Thereafter, the petitioner was taken to the office of the 2nd respondent where a statement was obtained from the petitioner. After lapse of one year, based upon the statement obtained from the petitioner and on the instruction from the 1st respondent, the 2nd respondent issued a show cause notice on 04.11.2020 to three driving schools including the petitioner driving school, calling for explanation from the petitioner and two others. On receipt of the show cause notice, the petitioner and two others filed an explanation on 16.11.2020, denying the allegations. The 2nd respondent, based upon the instruction of the 1st respondent, cancelled the licence of the petitioner driving school and two others driving schools by proceedings dated 23.11.2020. Aggrieved by the said order, the petitioner along with two others filed appeals before the 1st respondent. The 1st respondent, by proceedings dated 23.02.2021, dismissed the three appeals. Aggrieved by the same, the petitioner and others filed writ petitions in W.P.Nos.7423 of 2021 etc., this Court dismissed the said petitions and directed the petitioner and others to avail the alternate remedy. Thereafter, the petitioner and others filed a revision



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before the Appellate Authority and the same was dismissed as not maintainable. The petitioner and others again filed a writ petition in W.P.Nos.18135 of 2021 etc., challenging the rejection of the appeals. This Court, by order dated 03.09.2021, remanded the matter to the 1st respondent for reconsideration. The 1st respondent again dismissed the appeals filed by the petitioner and two others by order dated 15.02.2022. Thereafter, the other two driving school owners filed writ petitions in W.P.Nos.4627 & 4630 of 2022 and the said writ petitions were allowed by order dated 13.07.2022, quashing the order of the respondents. Now the petitioner has no business and his family is suffering a lot of financial constraints. Hence, he has filed this Writ Petition aggrieved by the order of the 1st respondent dated 15.02.2022 made in R.No.29241/HB1/2021.

3. Denying the averments, the 2nd respondent filed a counter affidavit, wherein it is stated that the 1st respondent is the Head of Transport Department, established under Section 213 of the Motor Vehicles Act 1988. Being the Head of the Transport Department, the 1st respondent is competent to issue instructions to its subordinate officers. At the same time, all the staff of their department are bound to carry out the instructions issued by the Transport Commissioner from time to time



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as per the provisions under Rule 426 of the Tamil Nadu Motor Vehicles Act, 1989. The license issued to the petitioner to run a driving school is liable to be suspended or revoked by the 2nd respondent according to the Rule 24(3) (i) read with Rule 28(1) of Central Motor Vehicles Rules, 1989. The petitioner, in W.P.No.18151 of 2021 filed before this Court, questioned the order of the 2nd respondent dated 03.09.2021 and this Court remanded the matter back to the 1st respondent for re-consideration and in pursuance of the said order, the 1st respondent conducted a hearing on 13.12.2021 and in the said hearing, the petitioner participated and submitted his explanation. The 1st respondent on scrutiny of the explanation, reports and other available records, considered the following points:

(a) The Chief Judicial Magistrate, Tiruvannamalai has given order to return the cash to the petitioner, at the same time, he has stated that there will not be any obstacle or hindrance for the prosecution for proceed the investigation.

(b) The case registered by the Vigilance and Anti Corruption Wing Tiruvannamalai in Cr.No.18/2019 under Section 7 of Prevention of Corruption Act and 102 Criminal Procedure Code is still pending. The investigation is not yet



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completed.

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(c) The driving school license was cancelled based on the report of Vigilance and Anti Corruption officials that this driving school owner possessed unaccounted money and averted the official in the irregularities.

(d) The explanation given by the driving school owner at the time of personal hearing was not satisfactory.

(e) Since, the investigation by the Vigilance and Anti Corruption Wing is not yet completed and the driving school owner is not acquitted from the charge of possessing unaccounted money and abetting the officials in the irregularities.

It is further stated that, for the above said reasons, the 1st respondent dismissed the appeal filed by the petitioner by R.No.29241/HB1/2021 dated 15.02.2022 confirming the order passed by the 2nd respondent in R.No.25327/B3/2020-3 dated 23.11.2020.

4. Heard the Learned counsel for the petitioner and Learned Special Government Pleader appearing for the respondents.



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5. The learned counsel for the petitioner submitted that the impugned order passed by the 1st respondent is in gross violation of the Central Motor Vehicles Rules and the direction given by this Court under the remand order dated 03.09.2021.

6. The learned counsel for the petitioner further submitted that the 1st respondent has grossly erred in mechanically passing the impugned order assigning new reason which is though available at the time of passing of the initial order by both the respondents. Further, the 1st respondent should have seen that this Court in the writ petition specifically held that the order must reflect the objective consideration on the part of the authority while rejecting the appeal filed by the petitioner and in the instant case, as the same is totally lacking, the order of the 1st respondent suffers from illegalities and improprieties and it warrants interference of this Court.

7. The learned counsel for the petitioner also submitted that the amount so seized from the petitioner is towards the fees collected for learners license, insurance premium in respect of heavy vehicle and



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tractor and the amount so seized when corroborated with the online statement produced by the petitioner, the respondent erred in not applying its mind to the factual ground, as they are influenced by the order of the Government and consequently the impugned order suffers from lack of jurisdiction vest with the respondents. Hence, the impugned order is liable to be set aside.

8. The Learned Special Government Pleader appearing for the respondents submitted that, on the basis of the remand order dated 03.09.2021 of this Court, a personal enquiry was conducted and explanation was received from the petitioner for the unaccounted money seized from the petitioner's driving school. The explanation submitted by the petitioner was duly considered in accordance with Rule 28(1) of the Central Motor Vehicles Rules, 1989, as well as the Circular Number 62/2011. Since the explanation was not satisfactory, the impugned order has been passed, cancelling the license of the petitioner's driving school. Further, the Learned Special Government Pleader submitted that the impugned order does not suffer from any infirmity warranting interference of this Court and this Writ Petition has to be dismissed.



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9. On perusal of the records, it is seen that the other two owners of M/s. Raja Light and Heavy Driving School and Tvl. Sri Lakshmi Narasimmar Driving School, have already challenged the order dated 15.02.2022 passed by the 1st respondent in Proc.No.28558/HB1/2021 and Proc.No.29240/HB1/2021, cancelling the licence of their driving school, in W.P.Nos.4627 & 4630 of 2022. The Court, after hearing their case, has observed that the orders passed by the 1st respondent is contrary to the orders passed by this Court on 03.09.2021 in W.P.Nos.18135, 18146 and 18151 of 2021. Further, this Court has allowed the said writ petitions by observing as follows:

14. A reading of Sub Rule (3)(i) to Rule 24 makes it clear that the aforesaid rule applies only when the licensing authority namely the second respondent considers application either for grant of license or renewal of license under the rules and not thereafter.

15. The respective licenses issued to the petitioners did not come up for renewal when the Show Cause Notices were issued. On the other hand, the Show Cause Notices were issued based on the inputs received from the vigilance and Anti Corruption Wing, when search was



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made in the respective petitioners shop on 11.10.2019.

16. Mere presence of cash whether accounted or unaccounted in the hands of the respective petitioners shop does not entitle the authorities under the Act namely the second respondent to cancel the licenses by invoking 24(3)(i) of the Central Motor Vehicles Rules, 1989.

17. Reading of the rest of the part of the Rule 24(3) also indicates applicable only when an application comes for either grant of license or renewal of the license and not otherwise.

18. The order passed by the second respondent as confirmed by the first respondent twice is on account of the Government Letter dated 06.12.2019 bearing reference Government Letter No.69727/Tr-II/2019-1 is unsustainable.

19. It further amounts to acting under dictates of superior. If the staffs in the Transport Department were indulging in corruption, it is for the respondent to take suitable action against them and proceed departmentally against them under the discipline and conduct rules.



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20. It is for the respondents to set their house in order. In any event, invocation of Rules 24 of the Central Motor Vehicles Rule, 1989 was not justified.

21. In my view the impugned orders and therefore the impugned orders are not sustainable and therefore the impugned orders are liable to be quashed.

22. Under these circumstances, the writ petitions filed by the respective petitioners are allowed. No cost. Consequently, the connected miscellaneous petitions are closed”.

10. In view of the above orders, it is made clear that the petitioner is entitled for grant of license to his driving school namely M/s.Sri Saravana Driving School and accordingly, the impugned order is liable to be quashed.

11. Accordingly, the impugned order is quashed and the respondents are directed to issue license to the petitioner's driving school, immediately, within a period of three weeks from the date of receipt of a



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copy of this order.

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12. In the result, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : yes/no

Internet : yes/no

To

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V.BHAVANI SUBBAROYAN, J.

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