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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 10.04.2024**

+ W.P.(C) 2487/2019

DEEPAK

..... Petitioner

Through: Mr. Roshan Santhalia, Adv.

versus

DEPARTMENT OF TRANSPORT

..... Respondent

Through: Mr. Rishikesh Kumar, ASC along with Ms. Sheenu Priya, Mr. Atik Gill, Mr. Sudhir Kumar Shukla and Mr. Sudhir, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

1. The present petition has been filed by the petitioner assailing the suspension order dated 10.04.2017, passed by the Transport Department with regard to driving license No.DL-0820010231375.
2. The limited grievance of the petitioner is that in terms of Section 19 of the Motor Vehicles Act, 1988, the power conferred upon the Licencing Authority viz. to disqualify a person from holding a driving licence or to revoke/suspend his licence, must be exercised after giving an opportunity of hearing to the holder of the driving licence. In this regard, attention is drawn to the express stipulation in Section 19(1), which is as under:

“Section 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.”*

3. It is submitted that no show cause notice, much less any hearing was afforded to the petitioner prior to suspension of the driving licence of the petitioner.

4. In ***Ashish Gosain v. Department of Transport***, (2016) 230 DLT 177, this Court has set out the procedure that is required to be followed by the Transport Department before passing a suspension order under Section 19(1) of the Motor Vehicles Act, as under:

“8.2. The directions issued by the Supreme Court Committee on the Road Safety for suspension of licence for a period of not less than three months under Section 19 of the Motor Vehicles Act in cases of driving at excessive speed, overloading, drunken driving and using mobile phone while driving, warrant strict implementation by Delhi Police as well as



Transport Department. However, the Delhi Police as well as the Transport Department have to follow due process of law which is as under: -

8.2.1. A valid show cause notice giving the particulars of the violation i.e. date, time and place, reference to relevant provisions violated and the directions of the Supreme Court Committee on the Road Safety.

8.2.2. An opportunity of hearing in terms of Section 19(1) of the Motor Vehicles Act, 1988.

8.2.3. The suspension order containing reasons in terms of Section 19(1) of the Motor Vehicles Act.”

5. The Court also set out the procedure formulated by the Delhi Police and the Transport Department itself, as under:

“8.3.1. In cases of violations specified in the directions of the Supreme Court Committee on the Road Safety, the concerned police officer/enforcement officer shall seize the driving licence for initiating proceedings for suspension of licence under Section 19 of the Motor Vehicles Act read with Rule 21 of the Central Motor Vehicles Rules, 1989. The acknowledgement of the seizure of the driving licence shall notify the driving licence holder that the driving licence is liable to be suspended for a period of not less than three months in terms of the directions of the Supreme Court Committee on Road Safety. The revised acknowledgment format is reproduced hereunder: -...

8.3.2. The licence seized by the Enforcement Officer shall be forwarded to the Motor Licensing Officer of the Transport Department who shall thereafter issue a show cause notice to the licence holder to show cause why his licence should not be suspended under Section 19(1)(d) and (f) of the Motor Vehicles Act read with Rule 21 of the Central Motor Vehicles Rules, 1989 in terms of the directions of the Supreme Court Committee on the Road Safety. The revised draft notice format is reproduced hereunder:-

...

8.3.3. The Motor Licensing Officer shall afford a hearing to the driving licence holder, who seeks the same in his reply. The suspension order shall be passed after considering the reply and the submissions made by the licence holder at the time of oral hearing. The suspension order shall be sent to the driving licence holder by Regd. AD Post. The suspension order shall carry a note that the driving licence holder is entitled to an appeal under Section 19(3) of the Motor Vehicles Act before the Appellate Authority within a period of one month from the date of the order.



8.3.4. The competent Transport Authority shall endeavour to complete the adjudicatory process preferably within a period of 90 days, failing which suitable period of extension shall be endorsed upon the acknowledgment/seizure memo by the said competent authority.”

6. The Court held “where the suspension order has already been passed without affording an opportunity of hearing under Section 19(1) of the Motor Vehicles Act, and the license holder seeks a personal hearing; there is no impediment in the Motor Licensing Officer giving a fresh opportunity of hearing and passing a revised order”.

7. In the present case, in the counter-affidavit, filed on behalf of the respondent, it has been averred that pursuant to an incident on 20.03.2017, when the petitioner allegedly jumped a red light (an offence under Sections 119/127 of the Motor Vehicles Act, 1988), a challan along with a seized driving licence was forwarded to transport department to initiate the suspension of driving licence under Section 19 of the Motor Vehicles Act, 1988. Subsequently, the licence is stated to have been suspended on 10.04.2017. The counter-affidavit states “being old case no records of show cause notice and copy of suspension order could be located”.

8. As such, the respondent has been unable to establish whether the procedure prescribed under law viz. affording an opportunity of hearing to the petitioner was followed before suspension of the driving licence of the petitioner.

9. In the circumstances, there is merit in the contentions of the petitioner that the impugned order dated 10.04.2017 has been passed without following the procedure prescribed under the statute and without complying with the principles of natural justice. Consequently, the said order is set



aside.

10. The respondent is directed issue a show cause notice giving the particulars of the violation and afford an opportunity of hearing to the petitioner in terms of Section 19(1) of the Motor Vehicles Act, 1988 and pass a fresh reasoned order which shall be communicated to the petitioner.

11. If the petitioner is not satisfied with the order that may be passed, the petitioner would be at liberty to avail the remedy of appeal before the appellate authority under Section 19(3) of the Motor Vehicles Act, 1988.

12. With the aforesaid directions, the present petition stands disposed of.

SACHIN DATTA, J

APRIL 10, 2024/cl