



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

48 WRIT PETITION NO. 5518 OF 2024

Shabbir Khan Sardar KhanPetitioner

VERSUS

State of Maharashtra & othersRespondents

.....

Mr. V. I. Thole., Advocate for the Petitioner.

Mr. S. N. Kendre, AGP for the State.

CORAM : R. M. JOSHI, J.

DATE : 24th MARCH, 2025.

PER COURT :

1. This petition takes exception to the order dated 03.11.2021 passed by the competent authority and Regional Transport Officer, Aurangabad, whereby the application for renewal of the licence for running driving school of the Petitioner came to be rejected. This order came to be challenged under Section 29 of the Motor Vehicles Act, 1889 before the appropriate authority and the Transport Commissioner, unsuccessfully. Hence, this petition.

2. Petitioner was running motor driving school at Aurangabad in the name and style as 'Poona Motor Driving School'. Petitioner was issued licence for running the said driving school for

the period from 30.10.2012 to 29.10.2015. This licence was subsequently renewed for further period upto 29.10.2020. Petitioner moved an application for renewal of the said licence on 30.10.2020 before Regional Transport Officer, Aurangabad. Appropriate fees was also paid. The licencing authority i.e. Regional Transport Officer, Aurangabad refused to renew the licence of the petitioner on the ground that he does not hold good moral character. The said finding is recorded on the basis of the fact that an offence under Prevention of Corruption Act has been registered against the petitioner. Petitioner, being aggrieved by the said order, preferred appeal under Section 29 of the Act before the appellate authority and the Transport Commissioner. After hearing both sides, the Transport Commissioner, by passing order dated 17.01.2024, rejected the appeal.

3. Learned counsel for the Petitioner has drawn attention of the Court to the provisions of Motor Vehicles Act more particularly Section 12 of the Act, which according to him, deals with the issue about licencing and renewal of the motor driving schools. It is his submission that there is no provision for non-granting or non-renewal of the licence on the ground that any criminal case is

pending against the applicant. He further drew attention of the Court to Rule 24 of the Central Motor Vehicles Rules, 1989 in order to contend that even in the said rules, there is no provision for non-renewal of the licence on the ground of pendency of any offence against the person. It is his submission that the requirement of person running a motor driving school to be of a good moral character needs to be considered in the context of the fact that the students come to the school for the purpose of learning driving skills which also includes females. Thus, according to him, it is only in this context, the requirement of good moral character can be considered and not otherwise. It is his submission that the offence under Section 188 of the Motor Vehicles Act has been admitted by the Petitioner however, that will not become an embargo for renewal of the licence for running a motor driving school. It is his submission that merely because an offence under the provisions of Prevention of Corruption Act is pending since 2018, renewal of the licence sought cannot be refused. He has also drawn attention of the Court to the fact that the offence against the Petitioner is registered in the year 2018 and inspite of the same he was holding licence to run driving school upto 29.10.2020. This, according to him, indicates that the

pendency of offence under the Prevention of Corruption Act was not and cannot become an embargo for renewal of the licence.

4. Learned AGP supported the impugned order.

5. At the outset, it needs to be recorded that the Petitioner has not challenged any rule from Motor Vehicles Act, 1989. It is the contention of the Petitioner that the pendency of offence under Prevention of Corruption Act cannot be considered as an embargo for renewal of the licence. There is no dispute about the fact that it is absolutely necessary for the licensing authority to consider grant of renewal of the licence having regard to the fact that the applicant and staff under him are of good moral character and are qualified to give driving instructions. Though there is no dispute with regard to the fact about qualification to give driving instructions, objection is raised by the authority with regard to the pendency of criminal case under the provisions of Prevention of Corruption Act. It cannot be disputed that the allegation against the Petitioner is of accepting bribe for and on behalf of the Regional Transport Officer. Though there is no specific embargo created by the provisions of the act or rules for renewal of licence on the ground of pendency of criminal

proceeding, however, it is necessary for the purpose of renewal that the person holds good moral character. Here in this case, petitioner is facing charge of accepting bribe for and on behalf of the Regional Transport Officer. The offence under the provisions of Prevention of Corruption Act involves moral turpitude. Thus, there is prima facie evidence on record to indicate that the petitioner is not holding good moral character.

6. In so far as continuation of licence upto 2000 inspite of registration of offence in the year 2018 is concerned, non coordination between government departments is a matter of common knowledge. The authorities under Motor Vehicles Act, having no knowledge of offence registered against the Petitioner is not unusual. In fact, this Petitioner ought to have intimated about the same. In any event, the issue has arisen for consideration of the authority at the time of renewal of the licence and as such continuation of licence after 2018 till 2020 is inconsequential.

7. This is not a case that the character of the Petitioner is under the clouds of doubt in respect of any act not connected with driving school. The allegation against him in the criminal case

pertains to acceptance of bribe on behalf of the Regional Transport Officer.

8. In the facts and circumstances of the case, the licensing authority is fully justified in rejecting renewal of the licence. Hence, there is no merit in the petition. Petition stands dismissed.

(R. M. JOSHI)
Judge

dyb