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W.P.No.23658 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.07.2025

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

WP.No.23658 of 2025

and

W.M.P.Nos.26620 and 26622 of 2025

Sivanmani

... Petitioner

Vs.

The Regional Transport Officer cum
Licencing Authority,
No.3-12A, Jakkiri Co-operative Society building,
Salem Main Road
Sangagiri – 637 301

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus after calling for the records pertaining to the order dated 30.05.2025 issued by the respondent in Show Cause No. TN52/2025/266, quash the same and consequently direct the respondent to return the forthwith petitioner's original driving licence bearing TN 4119960002285, without any endorsement within a specified time fixed by this Court and pass orders.

For Petitioner

: Mr.R. Krishnasamy

For Respondent

: Mr.M. Shajakhan,SGP



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ORDER

By consent of both counsels, this writ petition is taken up for final disposal at the stage of admission itself.

2.Mr.M. Shajakhan, SGP takes notice for the respondents.

3.The petitioner is employed as a driver in Tamil Nadu Transport Corporation. The petitioner states that on 12.05.2025, when the petitioner was driving the bus bearing No.TN-38-N-3278, plying between Coimbatore and Athur, Salem District, a family of four members boarded the bus with a 9 month old infant. While so, the mother of the infant, tried to pass the child to her husband who was sitting on the left side of the bus, but unfortunately the infant slipped and fell off the bus, sustained grievous injuries and later succumbed to the injuries. Therefore, the police at Thevoor Police Station, Salem registered a FIR No.132/2025, against the petitioner. Based on the complaint of the victim's father, the petitioner was suspended from the service but later he was permitted to join duty. On 16.05.2025, the

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respondent issued a show cause notice to the petitioner, calling for his explanation regarding the seizure of his driving license under section 19 of the Motor Vehicles Act, 1988 read with Rule 21 of the Central Motor Vehicles Rules 1989. Pursuant to the show cause notice, the petitioner submitted his representation on 22.05.2025. Thereafter, an enquiry was conducted and the impugned order was passed on 30.05.2025, suspending the petitioner's license for a period of two months and 30 days, invoking Section 19(1)(d) &(f) of the Motor Vehicles Act 1988, read with Rule 21 of Central Vehicles Rules, 1989. Aggrieved by the said impugned order the petitioner filed the above writ petition for the aforesaid relief.

4. The learned counsel for the petitioner submits that the impugned order is illegal as it is based merely on the FIR. The learned counsel further submits that the impugned order is exfacie illegal as the respondent had predetermined the issue by observing that the petitioner had committed the offence while invoking Section 19(1)(d) &(f) of the Motor Vehicles Act 1988, read with Rule 21 of Central Vehicles Rules, 1989 for suspending the



petitioner's licence. The learned counsel therefore prays to set aside the impugned order.

5. I Heard the learned counsels appearing on either side and perused the materials available on record.

6. The facts of the case are undisputed and therefore to avoid prolixity they are not traversed. Before embarking on the discussion of the issue raised before me, in my view, it would be appropriate to refer to Section 19 of the Motor Vehicles Act, 1988 and the same is extracted hereunder:

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 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 show that his driving is likely to be



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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 driver all or any classes or descriptions of vehicle specified in the licence; or

(ii) revoke any such licence.

[1A) Where a licence has been forwarded to the licensing authority under sub section (4) of section 206, the licensing authority, if satisfied, after giving the holder of the driving licence an opportunity of being heard, may either discharge the holder of a driving licence or ,it may for detailed reasons recorded in writing, make an order disqualifying such persons from holding or obtaining any licence to drive all or any class or description of vehicles specified in the licence-

(a) for a first offence, for a period of three months;



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(b) for a second or subsequent offence, with revocation of the driving licence of such person;

PROVIDED that where a driving licence is revoked under this section, the name of the holder of such driving licence may be placed in the public domain in such manner as may be prescribed by the Central Government.

7. Upon a bare reading of the above section, it is evident 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 exists. Further, the power under Section 19(1) can be invoked only after affording an opportunity of hearing to the holder of licence and for reasons to be recorded in writing. A perusal of the impugned order reveals that the respondent has pre-concluded the issue by stating that he was convinced that the petitioner had committed the offence even before the Criminal Court or the Motor Accidents Claims Tribunal decided the issue. The respondent has also not given any reasons for rejecting the petitioner's reply to the show cause notice. Reasons as is well known are the heart beat of administrative decision. I am, therefore of the view that the impugned order is exfacie illegal.

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8. Identical issue involving the intent and width of Section 19 of

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Motor Vehicles Act, 1989, arose before the division Bench of this Court in

Writ Appeal (MD) No.374 of 2009 of 2009 in the case of P. Sethuram Vs

The licensing authority, The Regional Transport officer. The relevant

portion of which is as follows:-

10. Apart from the above, there is no allegation, either in the notice or in the order impugned in the Writ Petition, that the appellant is a habitual criminal or habitual drunkard, so as to attract Clause (a) of Section 19(1) of the Act. Similarly, neither the show cause notice nor the order impugned in the Writ Petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub-Section (1) of Section 19 of the Act. Except stating that as per the report of the Inspector of Police, the appellant was guilty of rash and negligent driving, the impugned order does not indicate the category in Clauses (a) to (h) of Section 19(1) , under which the case of the appellant would fall.

11. The respondent has, in the impugned order, preconcluded the issue that the appellant is guilty of rash and negligent driving,, even before the Criminal Court of the Motor Accident Claims Tribunal went in to the issue. Even to invoke Section 19(1) (c), it is necessary to show that the Motor Vehicle is used in the commission of a cognizable offence. Without making a specific averment regarding the same, the order suspending the driving licence cannot be taken to to be passed after due application of mind.



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WEB COPY 9. In view of the afore said factual position and the aforesaid order of the Hon'ble division Bench, the impugned order dated 30.05.2025, is set aside. Accordingly, the writ petition is allowed. The respondent is directed to return the original driving licence to the petitioner without waiting for further orders from this Court. However, it shall not preclude the respondents from initiating any action, under any of the contingencies specified in Clauses (a) to (h) of Section 19(1) of the Act, if it arises later or if any of the Rules as prescribed by the Central Government are violated. No costs. Consequently connected miscellaneous petitions are closed.

01.07.2025

smn
Index:Yes/No
Speaking order:Yes/No
Neutral Citation:Yes/No

To.
The Regional Transport Officer cum
Licencing Authority,
No.3-12A, Jakkiri Co-operative Society building,
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Sangagiri – 637 301

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N.MALA, J.

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