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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.9954 of 2025

S.Sivakumar : Petitioner

Vs.

1. The Regional Transport Officer,
Kuliththalai,
Karur District.

2. The Inspector of Police,
Mayanoor,
Karur District. : Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the first respondent to return the original driving license No. TN 47 19990003549 of the petitioner to him forthwith.

For Petitioner : Mr.A.Balaji
For Respondents : Mr.K.S.Selvaganesan
Addl.Govt.Pleader for R1
Mr.K.Gnanasekaran
Govt. Advocate (Crl. Side) for R2

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O R D E R

The present Writ Petition is filed for a Mandamus, directing the first respondent to return the original driving license of the petitioner bearing No.TN 47 19990003549.

2. The petitioner's case is that an FIR was filed in Crime No. 50 of 2025 against him for offences under Sections 281 and 125(a) of the BNS 2023, following an accident caused by him on 18.02.2025 while driving a bus with registration No.TN-45-N-4020. The victim of the accident sustained head injuries. Subsequently, the first respondent seized the petitioner's license. Aggrieved by the same, the petitioner has filed the present Writ Petition.

3. The learned counsel for the petitioner would submit that the petitioner was neither given any show cause notice nor any enquiry was conducted.

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4. It is submitted by both the learned counsel for the petitioner, as well the learned Additional Government Pleader appearing on behalf of the first respondent, that the short question that arises for consideration in this petition is as to whether the first respondent has power to impound the driving licence of a person involved in a road traffic accident and the same stands resolved by the judgment of the Hon'ble Division Bench of this Court in W.A.No.176 of 2009 and the said judgment is being followed consistently by this Court. The relevant portion of the judgment is extracted hereunder:

> "6.Section 19(1) of the Motor Vehicles Act, 1988, empowers the Licensing Authority to disqualify a person for holding or obtaining any driving licence for a specified period or to revoke any such licence. Similarly, a Court which convicts a person for an offence under the Act, is empowered by Section 20(1) to disqualify such person from holding a driving licence for a specific period. Section 21 makes a driving licence become suspended, if the holder of the licence had been previously convicted of an offence punishable under Section 184 and a case had been registered against him on the

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allegation of causing the death or grievous injury to one or more persons by dangerous driving. Section 22 empowers the Court to cancel or suspend the driving licence, upon conviction of a person for an offence under Section 184.

7.Obviously, Sections 20 and 22 are not applicable to the case on hand, since the action impugned in the writ petition did not arise out of the disqualification ordered by a Court. There is no allegation that the appellant was previously convicted for an offence under Section 184. Therefore, Section 21 also has no application to the case on hand. Consequently, the only provision to which the respondent could restore to, is Section 19.

8.Section 19 of the Motor Vehicles Act, 1988, 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

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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

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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),

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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."

9.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 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.

10.But in the case on hand, the licence of the appellant has been impounded or retained by the respondent,

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immediately after the accident on 18.3.2009. Admittedly, the show cause notice was issued only on 28.4.2009. Therefore, it is clear that the driving licence was retained, both without an order in writing and without affording an opportunity of being heard to the appellant. This is a clear violation of the provisions of the statute and hence the order of the learned Judge, dismissing the writ petition deserves to be set aside."

5. This Court finds that inasmuch as admittedly neither any show cause notice nor an enquiry having been made, the retention of the license is illegal, in view of the judgment of the Hon'ble Division Bench of this Court (supra). Hence, the first respondent is directed to return the driving licence of the petitioner, within a period of one week from the date of receipt of a copy of this order.

6. The learned counsel for the respondents would submit that the petitioner may co-operate with the proceedings already initiated, which was readily agreed to by the learned counsel for the petitioner.

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7. This Writ Petition is allowed on the above terms. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes / No

PKN

To

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VIVEK KUMAR SINGH, J.

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