

HIGH COURT OF MADRAS**Bench: Justice P. Dhanabal****Date of Decision: 8th May 2024**

Case Number: W.P(MD) No. 11130 of 2024

K. Perumal Petitioner**Versus****The Regional Transport Officer, The Regional Transport Office,
Thirumangalam, Madurai District****The Inspector of Police, Thirumangalam Taluk Police Station, Madurai
District**

...Respondents

Legislation and Rules:

Article 226 of the Constitution of India

Section 304(A) of the Indian Penal Code

Sections 19, 20, 21, and 22 of the Motor Vehicles Act, 1988

Subject: Petition for the issuance of a Writ of Mandamus directing the return of the petitioner's driving license.**Headnotes:**

Writ - Criminal Law – Offence under Section 304(A) IPC for Causing Death by Negligence – Petition for Return of Seized Driving License – The petitioner, K. Perumal, drove a bus involved in a fatal accident, resulting in the registration of a case under Section 304(A) IPC. The second respondent police seized the petitioner's driving license and handed it to the first respondent, the Regional Transport Officer. Despite approaching the first respondent for the return of his license, no action was taken, prompting the present writ petition [Paras 1-3].

Motor Vehicles Act – Licensing Authority's Power to Revoke or Suspend License – Court's Previous Ruling Referenced – The petitioner cited a previous order of the court in W.P(MD) No. 2111 of 2021, which addressed a similar issue. The court reviewed the provisions of Section 19 of the Motor Vehicles Act, which allow the licensing authority to disqualify or revoke a driving license, provided that the holder is given an opportunity to be heard, and reasons are recorded in writing. In the present case, the license was seized without following these statutory procedures [Paras 4-6].

Decision – Writ Petition Allowed – Held – The court directed the first respondent to return the driving license to the petitioner forthwith. The order emphasized the requirement for due process under Section 19 of the Motor Vehicles Act and held that the seizure of the license without proper notice and opportunity to be heard was unlawful. The ruling aligns with the principles established in previous judgments, ensuring the protection of procedural rights of individuals involved in road traffic incidents [Para 7].

Referred Cases:

- S. Murugesan v. The Licensing Authority/Regional Transport Officer, W.A.(MD) No.175 of 2009

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ORDER

The present petition has been filed for issuance of Writ of Mandamus directing the first respondent to return the driving license of the petitioner bearing D.L. No.60- 19941112352 forthwith.

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

3. It is the case of the petitioner that on 06.04.2024 he drove a bus bearing Reg. No.TN 58 N 2283 between Madurai and Sankarankovil and when he was going near Rajapalayam- Thirumangalam Road at about 2.40 pm., when he was near Sedapatti Vilakku he dashed against the two wheeler and the rider of the two wheeler fell down and sustained grievous injuries and later he died. Hence a case came to be registered in Crime No.77 of 2024 for the offence under Section 304(A) of IPC by the second respondent police. Thereafter the second respondent police seized the driving license of the petitioner and handed over the same to the Motor Vehicle Inspector who, in turn gave it to the first respondent. Thereafter the petitioner herein had approached the first respondent for return of his driving license, since no action has been taken the present petition has been filed.

4.The learned Additional Government Pleader appearing for the first respondent opposed to grant relief to the petitioner.

5. The learned counsel appearing for the petitioner produced copy of the order passed by this Court in W.P(MD) No.2111 of 2021 stating that this matter is covered by the judgment of this Court.

6. This Court has perused the order. On perusal it is observed that this Court in similar kind of petition has passed the following order and this case is covered by the judgment. This Court in the said case has held as follows:

4. However, the issue on hand is squarely covered by the order dated 22.06.2009 made in W.A.(MD)No.175 of 2009 (S.Murugesan Vs. The Licensing Authority/Regional Transport Officer). The Hon'ble Division Bench held as follows:-

“5. Therefore the question that falls for consideration in this appeal is as to whether the respondent has a power to impound the driving license of a person involved in a road traffic accident.

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 license. 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 license for a specified period. Section 21 makes a driving license become suspended, if the holder of the license had been previously convicted of an offence punishable under Section 184 and a case had been registered against him on the allegation of causing the death of 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 resort 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 Drugs and Psychotropic Substances Act, 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.

(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 subsection

(1), 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 license or disqualify a person for a specified period from holding or obtaining a driving license, 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, immediately after the accident on 18.03.2009. Admittedly, the show cause notice was issued only on 28.04.2009. 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.

11. Accordingly, the Writ Appeal is allowed. The order of the learned Judge is set aside and the Writ Petition is allowed. The respondent is directed to return the driving licence of the appellant, within a week of receipt of a copy of this order. However, it shall not preclude the respondent from proceeding further with the proceedings already initiated, if any of the contingencies specified in Clauses (a) to (h) of Section 19(i) of the Act, has arisen or if any of the Rules as prescribed by the Central Government in pursuance of Section 19(1)(f) are violated.”

7. In view of the same and this case is covered by the above said decision, this Writ Petition is allowed and the first respondent is directed to return the petition mentioned driving license to the petitioner forthwith and without any delay. . No costs.

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