

(2013) 12 MAD CK 0065

In the Madras High Court

Case No : Writ Petition (MD) No. 6171 of 2008 and M.P. (MD) No's. 1 and 2 of 2008

M. Rengarajan

APPELLANT

Vs

The Licensing Authority, The Regional Transport Officer

RESPONDENT

Date of Decision : 06-12-2013

Acts Referred:

Citation : (2013) 12 MAD CK 0065

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Advocate : S. Arunachalam, for the Appellant; N. Manoharan, Special Govt. Pleader, for the Respondent

Final Decision : Partly Allowed

Judgement

R. Sudhakar, J.—This writ petition has been filed by the petitioner to quash the impugned proceedings of the respondent in Se.Mu.Aa. No. 51532/A4/2008 dated 02.07.2008, and direct the respondent to return the driving licence of the petitioner to him. Heard the submissions of the learned Counsel for the petitioner and The learned Special Government Pleader appearing for the respondent and perused the materials available on record.

2. Section 19 of the Motor Vehicles Act, 1988, (hereinafter referred to As "the Act") provides for the Licensing Authority to disqualify the holder of a driving licence or revoke such licence if the authority is satisfied after giving the holder of the licence an opportunity of hearing on various contingencies contained therein.

3. In this case, it is stated that the petitioner is found to be guilty Of driving the vehicle in an intoxicated state and causing the death, on the basis of the complaint registered by the Inspector of Police, Y. Othakadai Police Station and as a result, the driving licence has been cancelled by the impugned proceedings. On the face of the record, it does not show that any notice has been issued to

the holder of the licence in terms of Section 19(1) of the Act. Therefore, there is a violation of the said provision and hence, the impugned proceedings is challenged.

4. Though the period specified therein is already over, pleading that it will cause a stigma on the petitioner, the present writ petition is pursued.

5. This Court, after considering the said provision of law and the impugned proceedings and having come to the conclusion that there is a violation of Section 19(1) of the Act, is of the view that the impugned proceedings has to be set aside for the violation as pointed out above. Therefore, the impugned proceedings of the respondent in Se.Mu.Aa. No. 51532/A4/2008 dated 02.07.2008, stands set aside. The respondent, is, however, at liberty to proceed with the matter after following the procedures u/s 19(1) of the Act.

6. At this juncture, this Court is inclined to direct the Licensing Authorities that if they want to take any action in terms of Section 19(1) of the Act, it is necessary that they should follow the provisions of Section 19(1) of the Act which the authorities concerned are failing to do, resulting in number of writ petitions filed and the orders of suspension or revocation of licence being stayed by this Court. One such instance is reported in P. Sethuram Vs. The Licensing Authority, The Regional Transport Officer, .

7. Therefore, the Secretary to Government, Transport Department, Government of Tamil Nadu, Chennai, should ensure that the authorities who take action without following the procedures prescribed under law, are duly informed that any deviation in the procedures prescribed in law would be viewed seriously in their service records. This direction is issued to ensure that the offenders do not get the benefit of interim orders by approaching the Court for the relief based on the error committed by the authority knowingly or unknowingly to aid or abet the offenders. In the result, this writ petition stands allowed to the extent indicated above. Consequently, the connected Miscellaneous Petitions are closed. No costs.