
(2021) 08 KL CK 0192
In the High Court Of Kerala
Case No : Writ Petition (C) No. 10109 Of 202

Nishin V.P

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 31-08-2021

Acts Referred:

Motor Vehicles Act, 1988 — Section 19(1)

Citation : (2021) 08 KL CK 0192

Hon'ble Judges : Sathish Ninan, J

Bench : Single Bench

Advocate : R.Surendran, Kum.S.Mayukha, Bimal K. Nath

Final Decision : Allowed

Judgement

Sathish Ninan, J

1. Motor car driven by the petitioner was involved in an accident on 13.12.2020. As per Ext.P2 order dated 19.02.2021, his licence was suspended for a period of 11 months and 28 days. Challenging the said order, the petitioner preferred Ext.P4 appeal before the second respondent. As per Ext.P5, the appeal was dismissed. It is challenging the said orders that the petitioner has approached this Court.
2. Ext.P1 is the show-cause notice dated 11.02.2021 issued by the third respondent in terms of Section 19(1) of the Motor Vehicles Act calling upon the petitioner to offer his explanations. Ext.P1 granted ten days' time for the petitioner to submit his explanations. According to the petitioner, Ext.P1 notice was served on him only on 19.02.2021. However, Ext.P2 order was passed on 19.02.2021 viz. the date of receipt of the notice by him. Therefore, he was not granted an opportunity to show-cause. Though Ext.P2 order stated that an explanation has been submitted by the petitioner on

11.02.2021, in fact no such objections was submitted. Even the notice, Ext.P1, was posted only on 12.02.2021 and therefore, there was no occasion

for the petitioner to file his objections on 11.02.2021. Thus contends the petitioner. Pointing out these facts, the petitioner preferred Ext.P4 appeal

before the second respondent. The appeal was dismissed as per Ext.P5.

3. A reading of Ext.P5 order passed in appeal indicates that, except for stating that "the records reveal the issuance of the notice for hearing by the

third respondent", the contentions of the petitioner have not been considered. In the circumstances I am of the opinion that an opportunity could be

granted to the petitioner to submit his objections to Ext.P1 show cause notice and be granted an opportunity of hearing.

Accordingly the writ petition is allowed. Exts.P2 and P5 orders are quashed. The petitioner shall submit his explanations, if any, to Ext.P1 notice, on or

before 15.09.2021. The third respondent shall grant an opportunity of hearing to the petitioner and pass fresh orders.