

(2018) 01 KL CK 0049
In the High Court Of Kerala
Case No : 978 of 2018

REGHUNATHAN NAIR

APPELLANT

Vs

THE STATE OF KERALA & ORS.

RESPONDENT

Date of Decision : 16-01-2018

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Power of High Courts to Issue certain writs

[Indian Penal Code, 1860](#), [Section 279](#) -
Rash driving or riding on a public way

Citation : (2018) 01 KL CK 0049

Hon'ble Judges : Anil K.Narendran

Bench : Single Bench

Advocate : K.SHAJ, RENJIT GEORGE, C.S. SHEEJA

Final Decision : Disposed off

Judgement

1. The petitioner, who is the holder of a driving license bearing No.5/1225/1988 issued by the 3rd respondent Licensing Authority, is before this

Court in this writ petition filed under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P4 order dated 30.11.2017

of the 3rd respondent, whereby the petitioner's driving license is suspended for a period of six months from 30.11.2017 till 29.05.2018, invoking

the powers under Section 19(3) of the Motor Vehicles Act, 1988.

2. On 10.01.2018, when this writ petition came up for admission, the learned Senior Government Pleader sought time to get instructions.

3. Heard the learned counsel for the petitioner and also the learned Senior Government Pleader appearing for the respondents.

4. Going by the averments in the writ petition, on 20.10.2017 at about 6.30 p.m.

while the petitioner was driving his vehicle bearing Registration No.KL-66/A-6310, the Circle Inspector of Police of Kainadi Police Station intercepted the vehicle and took the petitioner and the vehicle in custody alleging that the petitioner had driven the vehicle under the influence of alcohol in a rash and negligent manner. A crime has been registered against the petitioner as Crime No.359 of 2017, alleging offences under Section 279 of the Indian Penal Code and Section 185 of the Motor Vehicles Act and Ext.P1 final report has also been filed before the Judicial First Class Magistrate Court, Ramankary.

5. Invoking the powers under Section 19 of the Act, the 3rd respondent Licensing Authority issued Ext.P2 show cause notice dated 30.11.2017, whereby the petitioner was asked to show cause why his license should not be cancelled or suspended in connection with the above incident. On receipt of Ext.P2 notice, the petitioner submitted Ext.P3 explanation dated 20.12.2017 before the 3rd respondent. On 27.12.2017, the petitioner has been served with a copy of Ext.P4 order "dated 30.11.2017", whereby his driving license has been suspended for a period of six months "from 30.11.2017", invoking the provisions under Section 19(1) of the Motor Vehicles Act.

6. It is feeling aggrieved by Ext.P4, the petitioner is before this Court in this writ petition. The petitioner would contend that Ext.P4 order passed by the 3rd respondent Licensing Authority is in violation of the principles of natural justice, inasmuch as, the said order was issued without considering Ext.P3 objection made by the petitioner on 20.12.2017 and without affording him an opportunity of being heard.

7. The learned Senior Government Pleader on instructions would submit that Ext.P3 objection made by the petitioner was received by the 3rd respondent only after the issuance of Ext.P4. The said submission cannot be accepted. Though Ext.P4 order is "dated 30.11.2017", the endorsement made therein indicates that it is one issued on 20.12.2017. As evident from the endorsement made on Ext.P3 objection, the same was received in the office of the Sub Regional Transport Office, Kuttanadu on 20.12.2017. As contended by the petitioner, if he had received Ext.P2 notice only on 06.12.2017, Ext.P3 objection filed on 20.12.2017 is one filed within the time limit stipulated in the said notice.

8. After considering the rival submissions, this Court finds that Ext.P4 order is one issued by the 3rd respondent, without considering Ext.P3

objection made by the petitioner and without affording him an opportunity of being heard. In such circumstances, this Court finds that Ext.P4 order

is liable to be set aside on the sole ground that it is one issued in violation of the principles of natural justice.

9. In the result, this writ petition is disposed of setting aside Ext.P4 order of the 3rd respondent and the said respondent is directed to pass fresh

orders, after considering Ext.P3 objection made by the petitioner and after affording him an opportunity of being heard. The 3rd respondent shall

pass a reasoned order reflecting the contentions raised by the petitioner in Ext.P3 objection, after taking note of the provisions under Section 19 of

the Motor Vehicles Act, Rule 21 of the Central Motor Vehicle Rules and also the circulars and orders governing the field. A decision in this regard

shall be taken, as expeditiously as possible, at any rate, within a period of one month from the date of production of a certified copy of this

judgment.

10. It is made clear that this Court has not expressed anything on the merits of the contentions raised by the petitioner and that Ext.P4 order is

interfered with only on the ground of violation of principles of natural justice.