

Sunil C Mathew., vs State of Kerala,

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Court : Kerala

Decided On : Dec-21-2022

Judge : Honourable Mr. Justice Amit Rawal

Appeal No. : WP(C)/41645/2022

Appellant : Sunil C Mathew.,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
WEDNESDAY, THE 21ST DAY OF DECEMBER 2022 / 30TH
AGRAHAYANA, 1944 WP(C) NO. 41645 OF 2022 PETITIONER: SUNIL
C MATHEW., AGED 50 YEARS, S/O. CD MATHAI, CHAMAKALA,
KURAVILANGADU, KOTTAYAM DISTRICT-PIN 686633. BY ADVS.
P.C.HARIDAS P.S.GOVIND RESPONDENTS: 1 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO THE DEPARTMENT OF
MOTOR TRANSPORT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001. 2 THE TRANSPORT
COMMISSIONER, 2ND FLOOR, TRANS TOWER, CV RAMAN PILLAI
ROAD, DPI, VAZHUTHACAUD, THIRUVANANTHAPURAM-695014. 3

THE DEPUTY TRANSPORT COMMISSIONER, KOCHI, OFFICE OF THE DEPUTY TRANSPORT COMMISSIONER, ZONAL OFFICE II, BUILDING NO 706, 707/37, SEAPORT-AIRPORT ROAD, OPP THRIKKAKARA BUS STAND, KAKKANAD-682030. 4 THE SUB-REGIONAL TRANSPORT OFFICER, ADDITIONAL LICENSING AUTHORITY, UZHAVOOR, KOTTAYAM DISTRICT-686634. BY ADV. SRI.JIMMY GEORGE, GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 41645 OF 2022 -2-

JUDGMENT

Petitioner is the holder of driving licence bearing No.35/1393/1998 valid upto 21.05.2023. On 05.05.2022 vehicle driven by the petitioner met with an accident resulting into registration of FIR bearing Crime No.0634 of 2022 of Kuravilangadu Police Station registered for offence punishable under Sections 279, 337, 338 of IPC.

2. 4th respondent - Sub Regional Transport

Officer / Additional Licensing Authority while exercising the powers under Section 19(1) of the Motor Vehicle Act issued a show cause notice dated 01.07.2022 Ext.P2 intending to suspend the driving licence. Reply to the show cause notice, dated 07.07.2022 Ext.P3 was submitted. Respondents conducted the enquiry and after noting down the statements of the concerned persons , the licence, vide order dated 29.08.2022 Ext.P7, for a period of fifteen(15) days with effect from 01.10.2022, WP(C) NO. 41645 OF 2022 -3- was suspended. An appeal was preferred before the Appellate Authority under the provisions of the Central Motor Vehicle Rules. Jurisdiction of this Court was invoked by Writ Petition (C)No.31220 of 2022. This Court vide order dated 30.09.2022 issued directions to the Appellate Authority to pass an order in the appeal after giving opportunity of hearing to the petitioner within a period of two months and till then, the order of suspension was ordered to be kept in abeyance.

3. Learned counsel appearing on behalf of the

petitioner submitted that there was an apparent defiance to the order of this Court as evident from Ext.P12 as the driving licence was suspended on 01.10.2022. Appeal preferred against that has also been dismissed. The only grievance expressed is that another order dated 09.12.2022 has been issued suspending the driving licence for a period of fifteen(15) days from 22.12.2022 to 05.01.2023 on the ground that on a previous occasion, WP(C) NO. 41645 OF 2022 -4- the suspension could not be affected owing to the interdiction by this Court.

4. Notice before admission was issued . Learned

Government Pleader, Mr.Jimmy George accepted notice and submitted that Ext.P16 could not have been passed in view of Ext.P12 screenshot whereby the driving licence had already been suspended.

5. I have heard learned counsel for the parties and appraised the paper book.

6. The operative part of the impugned order

Ext.P16 dated 09.12.2022 reads as under:

Therefore, the order No.R/5/1027/K L 67 dated Uzhavoor, on the basis of crime No.0634/2022 of Kuravilangadu Police Station, Letter No.460/TDR/2022-VSD dated 28/06/2022 of deputy superintendent of Police, Vaikom, report dated 02/08/2022 of the AMVI RTO, enforcement, Kottayam, and as per circular No.21/2008 dated 02/08/2008 of the transport Commissioner your license KL 35 19980001393

WP(C) NO. 41645 OF 2022 -5-

has been suspended for a period from was not implemented as per the order of the honourable High Court of Kerala in W.P. (C)No.31220/2022 dated 30/09/2022 and in compliance with the order No.Z2C/122/2022 dated 19/11/2022 of the Transport Commissioner, Central Zone pursuant

to the directions of the honourable High Court, it is ordered to suspend your license number KL 35- 19980001393 for a period of 15 days from

From perusal of the screenshot Ext.P12, it is evident that the VAHAN portal reflected the licence to be suspended on 01.10.2022. Once the order had already been implemented despite the interdiction by this Court, in my view the action of the respondents again initiating the steps for suspension is apparently willful disobedience of the order of this Court. Be that as it may. Learned Government Pleader has expressed remorse in respect of the impugned action. I am of the view that order impugned Ext.P6 is wholly preposterous WP(C) NO. 41645 OF 2022 -6- and fallacious as for the reason that suspension had already come to effect, accordingly it is not sustainable in the eyes of law. Order Ext.P16 is set aside. Writ petition is allowed. Sd/- AMIT RAWAL JUDGE VV WP(C) NO. 41645 OF 2022 -7- APPENDIX OF WP(C) 41645/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE DRIVING LICENSE OF THE PETITIONER. Exhibit P2 TRUE COPY OF OF SHOW CAUSE NOTICE NO. R5/1027/2022/KL67 DATED 03/07/2022 OF THE 4TH RESPONDENT WITH ENGLISH TRANSLATION. Exhibit P3 TRUE COPY OF THE REPLY DT 7/7/2022, TO EXT. P2 FILED BY THE PETITIONER. Exhibit P4 TRUE COPY OF THE 1ST INFORMATION STATEMENT DT 8.5.2022 IN CRIME NO. STATION WITH ENGLISH TRANSLATION. Exhibit P5 TRUE COPY OF THE MAHASAR DTD 9/5/2022 PREPARED IN RESPECT OF THE SCOOTER BEARING REGISTRATION NO. KL-67 A-6368 WITH ENGLISH TRANSLATION. Exhibit P6 TRUE COPY OF THE ADDITIONAL STATEMENT DATED 9/5/22 GIVEN BY THE 1ST INFORMANT IN CRIME NO. 634/2022 WITH ENGLISH TRANSLATION. Exhibit P6 A TRUE COPY OF THE STATEMENT DATED SCOOTER WITH ENGLISH TRANSLATION. Exhibit P7 TRUE COPY OF THE ORDER NO R5/ 1027 /2022 /KLG7 / DATED 29/08/2022 THE 4TH RESPONDENT WITH ENGLISH TRANSLATION Exhibit P8 TRUE COPY OF THE CIRCULAR NUMBER 21/08 OF THE 2ND RESPONDENT DATED 2.8.2008 WP(C) NO. 41645 OF 2022 -8- Exhibit P9 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DTD. 26.9.2012 Exhibit P10 TRUE COPY OF THE STAY PETITION FILED ALONG WITH EXT.P9 APPEAL DTD. 26.9. 2022. Exhibit P11 TRUE COPY OF THE JUDGMENT DATED Exhibit P12 TRUE COPY OF

THE PRINT OUT VIRTUAL DRIVING LICENSE OF THE PETITIONER TAKEN ON 01/10/2022. Exhibit P13 TRUE COPY OF THE PRINT OUT VIRTUAL DRIVING LICENSE OF THE PETITIONER TAKEN ON 15 10/2022. Exhibit P14 TRUE COPY OF THE ARGUMENT NOTS SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DTD.21/10/2022 Exhibit P15 TRUE COPY OF THE ORDER NO. C22C/122/20221 DATED 30/09/2022 OF THE 3RD RESPONDENT Exhibit P16 TRUE COPY OF THE PROCEEDINGS NO R5/ 1027 2022/ KL 67 DATED 09/12/2022 OF THE 4TH RESPONDENT WITH ITS ENGLISH TRANSLATION.

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