

*Before Rajiv Narain Raina, J.*

**KULDIP BALHARA—Petitioner**

*versus*

**STATE OF HARYANA & ANOTHER—Respondents**

**CWP No.10077 of 2012**

February 06, 2013

*Constitution of India, 1950 - Art.226 - Motor Vehicles Act, 1988, Chap. II - Ss.4 and 15(1) - Petitioner admittedly underage at the time of issuance of driving licence in the first instance - Driving licence renewed 4 times thereafter - Application for renewal after the last renewal ran out, returned by the Licensing Authority, because, the software installed, picked up the age error at the time of issue of the initial license - Petitioner, by that time was 37 years old, and there was nothing on record to show that he was a menace on the road - Not a case where age was falsified - Illegality of initial issue of driving licence came to an end, when the petitioner attained the age of 18 - Petitioner more than 16 years when the licence was granted in the first instance - Proviso to S.4 provides for grant of licence on attaining the age of 16 in respect of a motor vehicle with engine capacity not exceeding 50CC - Issue of licence by Motor Vehicle Authority in the first instance probably a mistake - Petitioner cannot be deprived of holding a driving licence for all times to come - Writ petition allowed.*

*Held*, that the question is whether a person can be deprived of renewal of a driving licence for all times to come in case the initial driving licence was invalid. It is not disputed that no action was taken against the petitioner for having applied for a licence when he was under age and the Licensing Authority continued to renew the licence four times and it is only at the stage of last renewal application that the request has been rejected primarily on the ground that the Software installed has refused to accept the entries in the renewal application, apart from the defence that the initial licence was invalid and cannot be validated.

(Para 8)

*Further held*, that if the initial grant was illegal it became an irregularity on attaining the age of 21 years and thereafter by subsequent renewals a valuable right accrued on the petitioner. It was curable since by that time the petitioner was major. It is also not a case where a person has made a false entry of date of birth at the renewal stages. Non-issuance of a renewed driving licence to the mind of this Court would operate far too harshly on the petitioner than is justified in the circumstances or under Section 15 (1) of the Act as he would be deprived of a valuable right of independence to drive a vehicle forever and even after 21 years of actual physical driving experience. It has not been shown that the petitioner if granted a renewed driving licence would be a menace and danger to society or of other road users. No specific statutory bar has been shown to me discernible from the provisions of the Motor Vehicles Act, 1988 or rules framed thereunder which could deprive the petitioner of renewal of a driving licence for all times. The 2nd respondent should not fall back on the crutches of the Computer which is designed for the aid of the community and cannot be used as an instrument of torture. They cannot be so wooden headed or unreasonable on such a trifling issue. The Computer is not the law. It is trite to say that procedure is only a handmaiden of justice. If the Computer software is so stubborn, then the application for renewal could be processed manually.

(Para 11)

Munisha Gandhi, Advocate, *for the petitioner*.

Deepak Jindal, DAG, Haryana

**RAJIV NARAIN RAINA, J.**

(1) Indisputably, the petitioner obtained a driving licence when he was aged 16 years, 11 months and 11 days. He was under age at the time. Section 4 of Chapter II of the Motor Vehicles Act, 1988 (for short "the Act") lays down that no person under the age of 18 years shall drive a motor vehicle in any public place. The proviso to the said Section lays down that a motor vehicle (with engine capacity not exceeding 50cc) may be driven in a public place by a person after attaining the age of 16 years. The date of birth of the petitioner is 30.6.1974.

(2) It is also not disputed that the District Transport Officer-cum-Licensing Authority, Rohtak renewed the driving licence of the petitioner four times thereafter without raising any objection as to the initial driving licence obtained by the petitioner when he was underage. The last renewal in 2006 ran out on 10.6.2011. The petitioner made an application for renewal of the driving licence on 18.7.2011 appending with the application procedural requirements, including copies of the ration card and the PAN Card issued by the Income Tax Department. The licensing authority returned the application on the ground that the age of the petitioner on the date when the original Driving Licence was issued, was less than 18 years, and therefore, the Computer Software installed in the office of District Transport Officer-cum-Licensing Authority, Rohtak developed under Section 4 of the Chapter II of the Act did not accept the entries of the renewal application. He was accordingly informed of the rejection vide communication dated 3.8.2011 (P-3). It is this denial vide order dated 3.8.2011 which has been impugned in this writ petition.

(3) The petitioner is now more than 37 years of age. He addressed a request letter dated 8.8.2011 (P-4) bringing to the notice of the 2nd respondent-Licensing Authority that the objection raised was no longer relevant since he was over 37 years old and his licence has been repeatedly renewed with the latest renewal being in the year 2006. The request met with no response and reminder letters were sent on 12.10.2011, 26.12.2011 and 21.2.2012 requesting immediate action for renewal of driving licence as he was unable to drive his vehicle on account of not having a valid licence. These letters are collectively placed on record as Annexure P-5. The petitioner avers that he has also made personal visits to the Office of the 2nd respondent on innumerable occasions, but the Office of the 2nd respondent has expressed its helplessness in the matter on account of non-acceptance of the application for renewal of the licence of the petitioner by the Computer Software installed in the office of the 2nd respondent via the Computer Programme called "Sarathi". This has led to filing of the present petition.

(4) On notice of motion having been issued, the respondents have put in appearance and have filed a written statement. Non-grant of renewal of driving licence has been justified citing Section 4 of Chapter II of the Act. Since the petitioner obtained a driving licence when he was under age, the original driving licence was not valid from the very beginning and mere renewal of the same cannot validate the same. The petitioner being under age at the time of grant of first licence, the prescribed software developed under Section 4 of the Act refuses to accept the details on that licence and consequently, they have expressed their inability to extend help in the matter.

(5) I have heard Ms. Munisha Gandhi, learned counsel for the petitioner and Mr. Deepak Jindal, learned Deputy Advocate General, Haryana appearing for the Licensing Authority.

(6) There can be no doubt that obtaining a Driving Licence when an applicant is under age, is an illegality rendering the Driving Licence invalid under the Act. The illegality would continue till the age of 18 years. However, on crossing the age bar, the respondent-Licensing Authority had renewed the licence four times and it was only at the stage of renewal in 2011, on expiry of the licence granted in 2006, that the Computer Software installed in the Office of the Licensing Authority was obdurate in accepting the application for renewal of the licence for further processing. The provision for grant of renewal of Driving Licence is laid down in Section 15 (1) of the Act which reads as under:-

15. Renewal of driving licences:- (1) Any licensing authority may, on application made to it, renew a driving licence issued under the provisions of this Act with effect from the date of its expiry:

Provided that in any case where the application for the renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal.

(7) If the renewal application is made within 30 days of the date of expiry of the licence, the renewed Driving Licence is issued with effect from the date of expiry. However, if the application is made beyond 30 days, the renewal can take effect only from the date of renewal.

(8) The question is whether a person can be deprived of renewal of a driving licence for all times to come in case the initial driving licence was invalid. It is not disputed that no action was taken against the petitioner for having applied for a licence when he was under age and the Licensing Authority continued to renew the licence four times and it is only at the stage of last renewal application that the request has been rejected primarily on the ground that the Software installed has refused to accept the entries in the renewal application, apart from the defence that the initial licence was invalid and cannot be validated.

(9) A computer is only an aid to procedure in processing a mass of applications and is not a final arbiter of human thinking, logic and decision making. If a Computer is programmed as per requirements of Section 4 of the Act it has no mind of its own. Though I cannot pat the petitioner on his back for securing a Driving Licence when he was under age, but I think it would be too harsh an interpretation of the provisions of the Act to hold that the petitioner has cut his feet for all times to come. To my mind, the original driving licence was illegal and the defect could not have been cured till on reaching the age of 18 years. However, after turning 18 years, the original licence was rendered a mere irregularity. In the absence of any specific bar in the act spelling out the future result of obtaining a licence under age, civil or criminal, it may be absurd to insist that such a person can never be issued a driving licence. The object of a driving licence is for peaceful co-existence of road users, orderly traffic management and that the life of no other driver or passenger is put to peril.

(10) The impugned order (P-3) returns the original renewal application for non acceptance by the new centralized Software Programme called "Sarthi" installed on the computer network in the office of the Licensing Authority, Rohtak under mandate of Government instructions. The computer cannot be criticized for what it has done. But whether the men behind the computer could validly reject the application on non-acceptance of entries by its software of the details of the licence for the reason that the petitioner was under age on 11.6.1991 when the original Driving Licence was issued, requires to be examined as a valid reason for rejection.

(11) If the initial grant was illegal it became an irregularity on attaining the age of 21 years and thereafter by subsequent renewals a valuable right accrued on the petitioner. It was curable since by that time the petitioner was major. It is also not a case where a person has made a false entry of date of birth at the renewal stages. Non-issuance of a renewed driving licence to the mind of this Court would operate far too harshly on the petitioner than is justified in the circumstances or under Section 15 (1) of the Act as he would be deprived of a valuable right of independence to drive a vehicle forever and even after 21 years of actual physical driving experience. It has not been shown that the petitioner if granted a renewed driving licence would be a menace and danger to society or of other road users. No specific statutory bar has been shown to me discernible from the provisions of the Motor Vehicles Act, 1988 or rules framed thereunder which could deprive the petitioner of renewal of a driving licence for all times. The 2nd respondent should not fall back on the crutches of the Computer which is designed for the aid of the community and cannot be used as an instrument of torture. They cannot be so wooden headed or unreasonable on such a trifling issue. The Computer is not the law. It is trite to say that procedure is only a handmaiden of justice. If the Computer software is so stubborn, then the application for renewal could be processed manually.

(12) For the foregoing reasons, this writ petition is allowed. The impugned rejection order dated 3.8.2011 (P-3) is quashed. A direction is issued to the 2nd respondent to consider grant of driving licence/ renewed driving licence to the petitioner either by making a suitable window in the Computer system to accept such entries or to do so manually in the petitioner's case with a note that it is under Court directive. The petitioner would present himself before the 2nd respondent and complete all other procedural formalities required/remaining for renewal of a driving licence. Immediately upon which the 2nd respondent is directed to consider and issue a renewed driving licence to the petitioner within seven days thereafter, in the light of this order.