

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

W.P.(C).No.14498 of 2015 (J)

PETITIONER(S):-

ANIL JOSE SIMON, VILAYIL, AGED 48 YEARS, S/O.SIMON,
GREEN VILLA, PLOT NO 572 LIG,
PANAMPILLY NAGAR, ERNAKULAM, KOCHI-36.

BY ADVS.SRI.ABRAHAM P.GEORGE
SMT.M.SANTHY

RESPONDENT(S):-

1. UNION OF INDIA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI-110001.
2. THE REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, PANAMPILLY NAGAR, KOCHI-36.

* ADDITIONAL 3RD RESPONDENT IMPEADED:

ADDL.3. SUB INSPECTOR OF POLICE, E.T.SOUTH POLICE STATION,
ERNAKULAM, THEVARA, KOCHI - 682 015.

* ADDITIONAL 3RD RESPONDENT IS IMPEADED AS PER ORDER ON
I.A.NO.6354 OF 2015 DATED 04.06.2015]

R1 & R2 BY ASSISTANT SOLICITOR GENERAL OF INDIA SRI.N.NAGARESH.
R3 BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

WP(C).No.14498 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1:- TRUE PHOTO COPY OF THE RELEVANT PAGES OF THE PETITIONER PASSPORT.
- EXT.P2:- TRUE PHOTOCOPY OF NOTICE DTD 28/3/2012 ISSUED TO THE PETITIONER BY 2ND RESPONDENT.
- EXT.P3:- TRUE PHOTO COPY OF THE JUDGMENT IN WPC NO 24394/2014 OF THE HON'BLE HIGH COURT OF KERALA.
- EXT.P4:- TRUE PHOTO COPY OF RELEVANT PAGE OF THE NEW PASSPORT OF THE PETITIONER NO Z2978994.
- EXT.P5:- TRUE PHOTO COPY OF RELEVANT PAGES OF THE INSTRUCTIONS FOR THE CHINESE VISA APPLICATION.

RESPONDENT(S)' EXHIBITS/ANNEXURES:-

- ANNEXURE R1(a) TRUE COPY OF SHOW CAUSE NOTICE NO.SCN/302272723/15 DATED 16.01.2015 ISSUED TO THE PETITIONER.

Vku/-

- true copy -

K. Vinod Chandran, J

W.P.(C).No.14498 of 2015-J

Dated this the 04th day of June, 2015

JUDGMENT

The petitioner is aggrieved with the issuance of a new Passport, that too with a validity only for one year, evidenced at Exhibit P4, despite Exhibit P3 judgment.

2. The background facts necessary are that, the petitioner is a tour operator, who was originally issued with Exhibit P1 Passport, which was valid till 30.11.2020. But, however on 28.03.2012, the petitioner was issued with Exhibit P2 notice, to show cause as to why the Passport shall not be impounded, since the involvement of the petitioner in Crime Nos.70 of 2002, 225 of 2005 and 536 of 2006 of Ernakulam Town South Police Station was not disclosed in the application. The petitioner is said to have replied to Exhibit P2; but, however, no action having been taken, the petitioner was before this Court. By Exhibit P3, this Court directed the petitioner to raise his objections before the Passport Authorities within two weeks and if there is no other pending criminal case involving the petitioner and the Passport Authority is of the view that

the Passport need not be impounded, necessary additional booklets were directed to be issued. The petitioner contends that despite the said direction, now a Passport has been issued for short duration, i.e., between 27.10.2014 and 26.10.2015. This, in fact, prejudices the petitioner, insofar as the petitioner, a tour operator, is interdicted from applying for Visa to certain countries, who insist for a valid Passport extending for a period of six months subsequent to the issuance of the Visa.

3. The learned Assistant Solicitor General of India has filed a statement on behalf of respondents 1 and 2, contending that despite the assertion of the petitioner, in the earlier writ petition that all the cases pending ended in acquittal, no documents were produced before the Passport Authority to substantiate the same. The statement also speaks about a police verification report from the District Police Chief, Kochi City dated 01.12.20014, subsequent to Exhibit P3 judgment stating that the petitioner could not be physically identified and the petitioner is an accused in Crime No.72 of 2002 of Ernakulam Town South Police Station. Hence, a show cause notice is said to have been issued on 16.01.2015, to which no explanation is said to have been received. The learned counsel for the petitioner,

however, asserts that a reply has been filed to the show cause notice [Exhibit R1(a)], which is produced as Exhibit P6. Only since there was a direction to consider the prayer of the petitioner, a short-term Passport was issued at Exhibit P4, is the contention of the official respondents.

4. It is to be noticed that there was no positive direction in Exhibit P3 to issue any additional booklet or even a Passport of short duration. It was only directed that the objection to the notice at Exhibit P2 shall be considered within two weeks and the Passport Authority shall issue additional booklet, if there are no other criminal cases involving the petitioner and the Passport Authority is of the view that the Passport need not be impounded. Hence, the fact that no criminal cases are pending alone, would not be sufficient for the issuance of additional booklets/Passport, since it depends upon the satisfaction of the Passport Issuing Authority as to whether the Passport need to be impounded on the ground of false declaration having been made earlier.

5. In such circumstance, it cannot be said that there was any laches on the part of the official respondents. If the petitioner has filed the objections and has produced sufficient materials to show

that that no criminal proceedings are pending, necessarily the Passport Issuing Authority should consider the same. The petitioner is directed to appear before the Passport Issuing Authority on 16.06.2015 and the Passport Authority shall consider the materials placed before it and comply with the directions in Exhibit P3 judgment in accordance with law and within a period of two weeks from the date of appearance of the petitioner. The petitioner shall be permitted to produce materials, to substantiate his contentions.

The writ petition is closed with the above observation.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]`