

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **14.05.2015**

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.14037 of 2015

M.Vishnupriya (Minor)
Rep. by her Mother and Natural Guardian
Mrs.R.Jayabhaduri,
D/o.Dr.T.Radhakrishnan,
No.599, Thiruvottiyur High Road,
Tondiarpet, Chennai-600 081.

... Petitioner

.. Vs ..

1. Regional Passport Officer,
Regional Passport Office Seva Kendra
Ministry of External Affairs,
Government of India,
Navins Presidium, No.103,
Nelson Manickam Road,
Aminjikarai, Chennai.

Also Having Address At:
Regional Passport Office,
Rayala Towers No.2 and 3,
IV Floor, Old No.785, New No.158,
Anna Salai, Chennai - 600 002.

2. Mr.G.Madhusudanan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of mandamus, directing the 1st respondent to accept the petitioner's Passport Application No.15-1003178635 and issue Passport expeditiously.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalai Kannu

For R-1 : Mr.V.T.Balaji
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ORDER

This writ petition has been filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to accept the petitioner's Passport Application No.15-1003178635 and issue Passport expeditiously.

2. The gist of the affidavit filed by the mother of the minor petitioner is as follows:-

(i) The petitioner is a minor and she is represented by her mother and natural guardian Mrs.R.Jayabhaduri. The petitioner was born on March 21, 2006 and now she is aged about 9 years. The petitioner's mother is an Associate Professor at Sri Venkateswara College of Engineering, Sriperumbudhur. The petitioner was born out of the wedlock between the petitioner's mother and her estranged husband Mr.G.Madhusudanan, the second respondent herein. Having been meted out with cruelty, the petitioner's mother is presently living separately along with the petitioner. The

petitioner's mother has also filed a petition for maintenance before the Family Court, Chennai, against the second respondent.

(ii) It is further averred that for an upcoming event "ESTA Annual Conference" which is held by Bundesvereinigung Deutscher Geldund Wertdienste (BDGW) in Germany during the period May 31, 2015 - June 2, 2015, the petitioner's mother's research paper has been accepted for presentation. As the petitioner is only 9 years old, the petitioner's mother wants to take her daughter along with her to Germany. Hence, the mother of the petitioner has made an application before the first respondent with appropriate Fees of INR 1000 (Rupees one thousand only) for issuance of passport on TATKAL basis for her daughter on April 4, 2015. The reference number of the said application is 15-1003178635. The mother of the petitioner has also enclosed necessary certificates along with the said application. But, despite compliance of all the statutory requirements for issuance of passport in favour of minor daughter/petitioner, the first respondent, on April 20, 2015, refused to accept the petitioner's passport application and insisted the petitioner's mother to get the consent and signature from her estranged husband, the second respondent herein. The refusal of the first respondent to issue passport to the minor petitioner,

despite compliance of all the mandatory requirements under the Passports Act, 1967 and Rules, 1980, is absolutely arbitrary and vitiated by non-application of mind. Hence, the petitioner, represented by her mother and natural guardian, has come forward with the present writ petition for a writ of mandamus, directing the first respondent to accept the petitioner's Passport Application No.15-1003178635 and issue Passport expeditiously.

3. The gist of the counter affidavit filed by the first respondent is as under:-

(i) Since the applicant is a minor, consent of both the parents in Annexure 'H' is required. However, the applicant's mother furnished Annexure 'G' duly attested. As per Ministry's guidelines, in Para 3.b of Chapter 9 in Passport Manual regarding issue of passports to Minor child, it is stated as follows:-

"Both the parents should sign Annexure 'H' of Appendix-1 though the form itself can be signed by either parent. In case either parent is resident abroad the consent of that parent in Annexure 'H' duly attested by the Indian Mission should be submitted. The parent who is submitting the application in India will sign the

application form and will attach the Annexure 'H' duly attested by the Mission. If Annexure 'H' is not attested by the Mission, the parent in India must submit an affidavit sworn before the Magistrate (Annexure 'G')".

(ii) In subsequent para in 4.b of Chapter 9 in Passport Manual, where special cases of Minors requiring passports are dealt with, the Ministry had issued the guidelines as follows:-

"In case divorce action is still pending before the Court, the PIA must insist on consent of both the parents. Alternatively, the applicant parent should furnish or obtain permission from the Court for applying for passport for the child without consent of the other parent of the child".

(iii) The first respondent office is ready to consider the application of the minor petitioner, in case the second respondent/father of the minor petitioner gives his consent or the mother of the minor petitioner obtains permission from the concerned Court before which the maintenance petition is pending.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. Learned counsel appearing for the petitioner, by inviting the attention of this Court to Annexure 'H' of the Passports Rules, 1980, submitted that if in case the applicant parent is not in a position to get the consent of the other parent, for whatever reason, the parent applying for the passport of the minor may sign the form and submit a sworn affidavit as per Annexure 'G'. In the instant case, the petitioner has already submitted sworn affidavit as per Annexure 'G'.

6. Considering the submissions made by the learned counsel for the petitioner, I am of the opinion that there cannot be any impediment for issuance of passport to the minor petitioner and hence, the writ petitioner is entitled for the relief sought for.

7. Accordingly, the writ petition is allowed directing the first respondent to accept the petitioner's Passport Application No.15-1003178635 and consider the issuance of passport in favour of petitioner on or before 19.05.2015.

14.05.2015

Index : Yes/No
Internet: Yes/No
Jrl/gv

Note:- Issue order copy on **15.05.2015**

To

The Regional Passport Officer,
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R.SUBBIAH, J.

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