

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2015

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THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. No.25443 of 2015

K.N.Sekar

... Petitioner

vs.

1. The Regional Passport Officer,
Regional Passport Office,
Ministry of External Affairs,
Sasthri Bhavan,
Nungambakkam,
Chennai - 600 034.

2. The State of Tamil Nadu
Rep. by the Inspector of Police,
T-1, Ambattur Police Station,
Chennai - 600 053.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus, directing the first respondent to issue passport to the petitioner based on his application and its file No.MASH00276511 within stipulated time.

For Petitioner : Mr.K.Balu

For R1 : Mr.Su.Srinivasan,
ASGI

For R2 : Mrs.P.Rajalakshmi,
Government Advocate

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ORDER

The petitioner filed an application before the first respondent seeking renewal of the short-term passport issued earlier. As the said application has not been disposed of, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the application was not considered on the ground of pendency of the criminal cases against the petitioner. The criminal cases are yet to reach the stage of final report and now, they are at the stage of first information report. Thus, as per the decision rendered in *Rajendiran Erusak Gounder vs. The Regional Passport Officer, Regional Passport Office, Ministry of External Affairs, First Floor, Corporation Commercial Complex, Avinashi Road, Coimbatore - 641 018* and another, in W.P.No.19662 of 2015, dated 06.07.2015, the respondents will have to be directed to consider the application made by the petitioner notwithstanding the FIR registered against him.

3. The learned counsel appearing for the first respondent submitted that the petitioner's application has been returned since he has applied for passport under old legacy system. The petitioner was duly advised to apply under the new system by furnishing the details of the criminal cases pending against him. His application will be processed on pre verification basis and in accordance with the provisions of Passports Act, 1967.

4. Considering the submissions made, the writ petition stands disposed of, giving liberty to the petitioner to apply for the passport under new software through PSP (Passport Seva Project) system. The petitioner is directed to indicate the position of the criminal cases pending against him, as required in the passport application. While dealing with the application, the authority concerned is directed to look into the provisions and the ratio laid down in the decision rendered in W.P.No.6742 of 2014 (*Venkatesh Kandasamy vs. Govt. of India, Ministry of External Affairs, Rep. by Regional Passport Officer, Regional Passport Office, Rayala Towers 2 & 3, 4th Floor, New No.158, Anna Salai, Chennai - 600 002*, wherein it has been held as follows:

"23. In so far as the case on hand is concerned, all the criminal complaints as against the petitioner are only at the stage of investigation. It is not a case of the respondent that final reports have been filed in the criminal Courts in any of the criminal complaints, so as to

make the case come within the four corners of Section 6(2) (f). Therefore, the impugned order is vitiated by non-application of mind and hence, it is liable to be set aside.

24. Accordingly, the writ petition is allowed and the impugned order is set aside and the respondent is directed to re-issue the passport to the petitioner within four weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P.No.1 of 2014 is closed."

No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Passport Officer,
Regional Passport Office,
Ministry of External Affairs,
Sasthri Bhavan,
Nungambakkam,
Chennai - 600 034.
2. The Inspector of Police,
T-1, Ambattur Police Station,
Chennai - 600 053.

+1cc to Mr.Su.Srinivasan, ASGI, S.R.No.56102

+1cc to Mr.K.Balu, Advocate, S.R.No.55832

W.P. No.25443 of 2015

TEJ(CO)
CA(14/10/2015)

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