

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.06.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.7021 of 2015
and
M.P.Nos.1& 2 of 2015

Dr.P.T.Manoharan

... Petitioner

Versus

The Regional Passport Officer
Regional Passport Office Chennai Royala
Towers No.2 and 3 IV Floor Old No.785 New
No.158 Anna Salai Chennai 2 ... Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorari, calling for the records in pursuant to the impugned order passed by the respondent in Letter Reference No. IMP/302252031/15 dt 9.1.2015 by impounding the passport of the petitioner bearing No. Z2482558.

For Petitioner : Mr.J.Ramesh

For Respondent : Mr.M.Arvind Kumar
Senior Central Govt. Standing Counsel

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner in the affidavit filed in support of this writ petition would submit that he is a scientist and an academician and after completing his under graduation and post graduation, got his doctorate in Philosophy at Columbia University, New York, United States of America and some times, he was employed with the Michigan State University as a Research Associate and then as an Assistant Professor. The petitioner had returned to the home land, joined the Rolls of the Indian Institute of Technology, Kanpur and was teaching under graduate and post graduate students in General, Quantum and Inorganic Chemistry and in the year 1972, he was appointed as the Associate Professor, IIT Madras and then took over as the head for special instruments laboratory, IIT, Madras. The petitioner has worked as the Professor of Chemistry in the said institution between 1973 to 1995.

3. The petitioner would further state that he was a visiting professor in the universities of Freiburg, Switzerland and of Western Australia, Perth, Australia and he was also appointed as CSIR Emeritus Scientist at its RSIC Centre, IIT, Madras. The petitioner was also the Chairman of Research Advisory Committee, Regional Research Laboratory, CSIR, Trivandrum and he was also elected as a fellow of third World Academy of Sciences in the year 2002 and he has also held the Sir C.V.Raman Chair with Indira Gandhi Open University, New Delhi.

4. It is further stated by the petitioner that his son viz., Naveen Kumar married one Madhudevi. There was difference of opinion between his son and daughter-in-law and she said to have committed suicide by hanging and in this regard, a case in Crime No.1358 of 2006 under Sections 498 (A), 304 (B) and 34 IPC r/w 4 of Dowry Prohibition Act, was registered against his son and other family members, which included the petitioner and the case after investigation, has culminated into a charge sheet and taken on file as S.C.No.552 of 2006 and the same is pending trial on the file of the Special Mahila Court, Chennai. Accused No.5, has filed CrI.O.P.No.14943 of 2010, to quash the charge sheet and vide order dated 01.07.2010, this Court has stayed the further proceedings in the above said sessions case.

5. The petitioner would state that he was issued with a valid Passport bearing No.F7663353 dated 11.05.2006, which was valid till 10.05.2016 and since pages in the said Passport were exhausted, he applied for reissue of the Passport through a travel agent and unfortunately, the travel agent failed to mention about the pendency of the abovesaid criminal case in the relevant column. The petitioner has also not verified the same due to his old age and work load. However, the application was scrutinized and the petitioner was reissued with the Passport bearing No.Z2482558 on 21.03.2013. Thereafter, the Police Verification was done and an Adverse Report has been given by the Inspector of Police, J-2, Adyar Police Station, Chennai, stating that a criminal case has been pending against the petitioner.

6. The Regional Passport Officer, on coming to know of the same, has issued a show cause notice as to why action should not be taken to impound his passport under Sections 10 (3) (b) and 12 of the Passport Act, 1967 and the petitioner in response to the show cause notice sent his reply stating among other things that his scientific and academic commitments are quite high and it requires travel broad and he will come back to his country, and he will not go away from the country for any reason. The 1st respondent, not being satisfied with the reasons has passed the impugned order, impounding the petitioner's passport and challenging the legality of the same, the petitioner has filed this present writ petition.

7. When the matter was taken up for final disposal, the learned counsel for the petitioner prays for time to file additional affidavit explaining reasons as to the non mentioning of the pendency of the criminal case against him and time was granted.

8. When the matter is listed today, additional affidavit of the petitioner dated 24.06.2015 has been filed, wherein at paragraph No.7, it is stated that he applied for reissue of passport through Travel agent under Tatkal Scheme and in that application, the Travel agent failed to mention about the criminal case pending trial against him in S.C.No.552 of 2006 and on account of old age and work load, the petitioner has not chosen to verify the same.

9. Learned counsel for the petitioner would submit that non mentioning of the criminal case pending against the petitioner was neither willful nor wanton, and it is an inadvertent mistake and also undertake that in the event of the impugned order being set aside and the passport being reissued, the petitioner will abide by the conditions and also draw the attention of this Court that the son of the petitioner in similar facts and circumstances, filed a writ petition for similar relief in W.P.No.15725 and it was ordered on 16.07.2013 quashing the order impounding the passport and the son of the petitioner was issued with a passport and no appeal has been filed against the said order and in the light of the facts and circumstances, prays for appropriate orders.

10. Per contra, Mr.M.Arvind Kumar, learned Senior Central Government Standing counsel appearing for the respondent would submit that since the petitioner has suppressed the pendency of the criminal case, a show cause notice was issued and after affording reasonable opportunity, the impugned order came to be passed rightly and prayed for dismissal of this writ petition.

11. This Court has carefully considered the rival submissions and also perused the materials placed before it.

12. At Paragraph No.7 of the additional affidavit, the petitioner has explained the reasons as to the non mentioning of the criminal case pending against him. The perusal of the affidavit filed in support of this writ petition coupled with documents enclosed in the typed set of papers would disclose that the petitioner is an eminent academician and has held very high positions in prestigious institutions and he is also a person of eminence and unfortunately, he has been arrayed as an accused in S.C.No.552 of 2006, which is pending on the file of the Mahila Court at Chennai and further proceedings have been stayed in pursuance to the order of stay granted in CrI.OP.No.14943 of 2010, filed by Accused No.5. The respondent has also issued a show cause notice against the son of the petitioner viz., Naveen Kumar, who is also one of the accused in the above said case as to why his passport should not be impounded for the reason that he has also suppressed the pendency of criminal case against him and ultimately, impounded the passport and it was put to challenge in W.P.No.15725 of 2013 and this Court, vide final order dated 16.07.2013, has set aside the impugned order with a further direction to the respondent to consider the petitioner's application and subsequently, the son of the petitioner was also reissued with the passport.

13. In the considered opinion of the Court, mere pendency of the criminal case cannot be cited as a bar to prevent the petitioner to travel abroad. Considering the fact that he is a visiting professor to various prestigious universities throughout the Globe, the said privilege and right cannot be denied to him. Therefore, this Court, in the light of the above facts and circumstances, especially the order dated 16.07.2013 made in W.P.No.15725 of 2013, which has also reached finality, is inclined to allow this writ petition.

14. In the result, the writ petition is allowed and the impugned order dated 09.01.2015, is set aside and the respondent is directed to remove necessary entries in the website and relevant records, as to the impounding of the petitioner's passport and issue appropriate orders within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//true Copy//

Sub Assistant Registrar

To

The Regional Passport Officer
Regional Passport Office Chennai Royala
Towers No.2 and 3 IV Floor Old No.785 New
No.158 Anna Salai Chennai 2

+1 cc to Mr.J.Ramesh, Advocate, SR.31140

+1 cc to Mr.M.Arvind Kumar, Advocate, SR.31782.

Tm(co)

krd 1/7

WEB COPY

W.P.No.7021 of 2015