

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.31481 of 2016

Prasanna Sekar

.. Petitioner

- Vs -

The Regional Passport Officer,
Old No.85, New No.158,
Royala Towers,
No.243, 4th Floor, Anna Salai,
Chennai - 600 002.

.. Respondent

Prayer:- Writ petition filed under Section 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to consider the representation dated 05.08.2016 of the petitioner which was submitted for issuing the passport in favour of the petitioner.

For Petitioner : Ms.Shyamala T Rajan

For Respondent : Mr.C.V.Ramachandra Murthy
Standing Counsel

O R D E R

The writ petition has been filed seeking a Mandamus directing the respondent to consider the representation of the petitioner dated 05.08.2016, which was submitted for issuance of passport in favour of the petitioner.

2. The petitioner has applied to the respondent for issuance of passport vide Application No.MA2069260852916 dated 04.04.2016.

3. The respondent while processing the application has sought for verification from the police. Thereafter, the petitioner came to know that the police has given an adverse report for issuance of passport, resulting in the respondent seeking certain clarifications regarding the pendency of the criminal cases. The petitioner has submitted a representation dated 05.08.2016 to the respondent for issuance of passport in his favour. Since there is no response, the petitioner has filed the present writ petition.

4. The learned counsel for the petitioner would submit that only an F.I.R. is pending against the petitioner and that cannot be a reason to deny passport to the petitioner. The learned counsel for the petitioner relied upon the Notification in GSR.570(E) issued by the Ministry of External affairs which reads as follows :

"In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act 1967 (15 of 1967) and in suppression of the notification of the Government of India in the Ministry of External Affairs No.GSR.298 (E), dated the 14 th April 1976, the Central Government, being of the opinion that it is necessary in public interest to do so hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause(f) of Sub Section (2) of Section 6 of the said Act."

5. The learned counsel for the petitioner would contend that since, the petitioner has applied for passport for the first time, the respondent itself can consider the application of the petitioner in the light of the above said Notification in GSR.570(E) issued by the Ministry of External affairs.

6. The learned counsel for the petitioner has also relied on the order of this Court in W.P.No.8948 of 2013 dated 12.06.2013, wherein the learned Single Judge has observed as follows :

"8. The application submitted by the petitioner for issuance of fresh passport requires to be considered by the first respondent on merits and as per law. The registration of criminal case against the petitioner cannot be a reason to deny passport to him. In the matter of this, this Court has to strike the balance between the right of the citizen to travel and the need of prosecution to ensure the presence of the accused to stand trial."

7. Following the orders of this Court in WP.No.8948 of 2013 dated 12.06.2013, as well as in W.P.No.32398 of 2015 dated 07.03.2016, this Court directs the petitioner to submit a fresh representation to the respondent enclosing all the details of the criminal cases, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this

order. On receipt of such representation, the respondent is directed to pass appropriate orders, with regard to issuance of passport to the petitioner in Application No.MA2069260852916 dated 04.04.2016, after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any, within a period of eight weeks, thereon.

8. The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Regional Passport Officer,
Old No.85, New No.158,
Royala Towers,
No.243, 4th Floor, Anna Salai,
Chennai - 600 002.

+1 cc to Mr.Ramachandramoorthy Advocate sr 63467
+2 cc to M/s.Dawood Khan Advocate sr 64065 dt 04/01/2017

W.P.No.31481 of 2016

nm(co)
aa08/12/2016

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