



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.07.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)No.5018 OF 2014

Alex Jewelsndurai

..Petitioner

.vs.

1.The Passport Officer,
Trichirappalli.

2.The Passport Officer,
Madurai.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to return the petitioner's passport after Emigration Check Not required (ECNR) stamping within the stipulated time by considering the petitioner's application dated 06.01.2014 and pass such further orders as this Court may deem fit and proper.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.G.Raja Raman

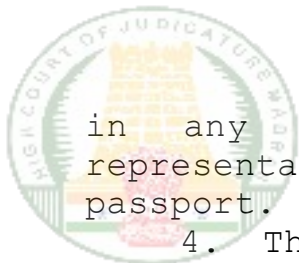
for R1 & R2.

ORDER

The petitioner has filed this Writ Petition for a Writ of Mandamus to direct the second respondent to return the petitioner's passport after Emigration Check Not required (ECNR) stamping within the stipulated time by considering the petitioner's application dated 06.01.2014.

2. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

3. The learned Counsel appearing for the petitioner submits that the petitioner was issued passport by the first respondent bearing Passport No.F8641644 on 21.06.2006. When the said passport was produced for Emigration Check Not required (ECNR) stamping before the Passport authority, his passport was not returned from the year 2008. He further submits that the passport was not returned because of pending criminal cases against the petitioner. Since, the criminal cases filed against the petitioner ended in acquittal even in the year 2012 itself and no appeal is pending, the petitioner states that he is not involved



in any other criminal cases and hence he submitted a representation before the second respondent to return the passport.

4. The second respondent has filed a counter affidavit, wherein it is stated that the respondents suspected the petitioner that he had obtained passport in the name of Shri.Viswan Raja S/o Ramya Raja from the Regional Passport Office, Chennai. Hence, a show cause notice was issued to the petitioner mentioning the details of both the passport numbers issued on 21.06.2006 and another one that was issued on 24.04.2007, seeking explanation from the petitioner.

5. Though the second respondent has taken the stand that the petitioner has not furnished his explanation against the show-cause notice, it is the specific case of the petitioner that the petitioner had not received any such show-cause notice.

6. Having regard to the above circumstances, without going into the factual issue whether the petitioner has been issued with a show-cause notice or not this Court feels that it would be appropriate to direct the second respondent to issue a show-cause notice afresh to the petitioner's address. On receipt of such notice, the petitioner shall send his explanation to the second respondent within a period of three weeks from the date of receipt of the show-cause notice. Upon receipt of explanation from the petitioner as directed above, the second respondent is directed to consider the petitioner's explanation and pass orders on the same on merits and in accordance with law after holding enquiry and giving sufficient opportunity to the petitioner adhering the principles of natural justice within a period of eight weeks thereafter.

7. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1.The Passport Officer, Trichirappalli.

2.The Passport Officer, Madurai.

+1 cc to M/s.T.A.Ebenezer, Advocate in SR.No.39919/16

+1 cc to M/s.G.Raja Raman, Advocate in SR.No.39630/16

gsr

CSL/SK-SKN/08.08.2016: 2p/5c

W.P (MD) No.5018 OF 2014

27.07.2016