



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD).No.15584 of 2016

and

W.M.P. (MD).No.11447 of 2016

Balasankar

... Petitioner

Vs.

The Regional Passport Officer,
Passport Office,
Madurai.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to File No.MD.1077432245914 dated 15.09.2014 on the file of the respondent and to quash the same and consequently directing the respondent to renew the petitioner's passport by considering his application dated 15.01.2014.

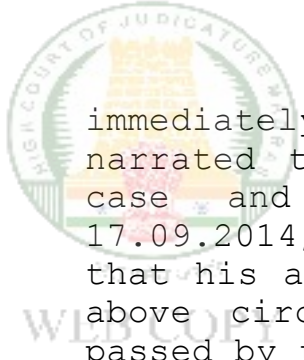
For Petitioner : Mr.G.Karnan

For Respondent : Mr.N.Shanmugaselvam
Standing counsel

O R D E R

The writ petition has been filed challenging the order passed by the respondent, dated 15.09.2014 and quash the same and consequently, direct the respondent to renew the petitioner's passport, by considering his application dated 15.01.2014.

2. According to the petitioner, he has applied for the passport in the year 2001 and after completion of verification, the passport has been issued to him on 03.04.2001, which was valid up to 02.04.2011. After expiry of the period, he had applied for renewal of the passport on 03.01.2014, and he has also appeared for verification of the certificate before the respondent on 15.01.2014. On completion of process, the respondent also directed the petitioner to pay a sum of Rs.1,500/- as fee. Thereafter, on 08.08.2014, the respondent sent a communication to the petitioner, seeking certain clarifications, on the ground that the police has given adverse report against him. Therefore, petitioner



immediately approached the respondent with necessary documents and narrated the circumstances regarding the initiation of criminal case and also submitted a written representation, dated 17.09.2014, before the authority. Subsequently, he came to know that his application was closed as early as on 15.09.2014. In the above circumstances, he challenges the order dated 15.09.2014 passed by the respondent.

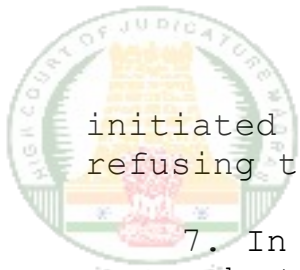
3. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent.

4. The learned counsel for the petitioner would submit that even though a criminal case is pending against him, it is not a bar for renewing the passport. He would further submit that Section 6(2)(f) of the Passports Act, 1967, contemplates that proceeding in respect of an offence alleged to have been committed by the applicant are pending before the criminal Court in India, whereas, in the case on hand, the criminal case is only in the F.I.R. stage and no final report has been filed before the Court. Hence, the provision of Section 6 will not be applicable to the petitioner. In support of his contention, the learned counsel relied upon a judgment of this Court reported in **(2014) 8 MLJ 61 (W.Jaihar William vs. State of Tamil Nadu)**, in which it is stated as follows:

"It is well settled legal principle that mere pendency of FIR cannot be construed as pendency of criminal proceedings in respect of the offences alleged to have been committed by the applicant before the Criminal Court. Only after the Court takes cognizance of the offence alleged to have been committed by the applicant, as stipulated under Section 190 of Cr.P.C., it can be constructed as "proceedings pending before the Court."

5. According to the petitioner, the criminal case registered against him is only under investigation and the above said fact was also not disputed by the learned counsel for the respondent. Since the criminal case only is under investigation and no final report has been filed before the concerned Court under Section 173 Cr.P.C., the petitioner's case will not come under the purview of Section 6(2)(f) of the Passport Act. Hence, the respondent cannot refuse to renew the passport on the ground that criminal case is pending against the petitioner.

6. The learned counsel for the respondent contended that the act of the petitioner suppressing the fact that the pendency of criminal case is squarely fall under Section 12(b) of the Act, hence, he is liable to be punished. Section 12(b) of the Act is only a penal provision for which a separate proceedings has to be



initiated by the respondent, and it cannot be a reason for refusing to renew the passport.

7. In the said circumstances, the impugned order passed by the respondent dated 15.09.2014 is set aside and the matter is remitted back to the respondent and the respondent shall consider the petitioner's application for renewal of passport and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

akv

To

The Regional Passport Officer,
Passport Office,
Madurai.

+1cc to Mr.G.KANNAN, Advocate Sr.No. 51554

jam/04.10.16/CK/SAR II/3P-3C

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