

THE HONOURABLE MR JUSTICE SURESH KUMAR KAIT

W.P.No.11261 of 2016

ORDER

Vide the present writ petition, petitioner seeks mandamus declaring the action of second respondent in refusing passport services to the petitioner under Section 6(2)(f) of the Passports Act, 1967 (for short 'the Act') through the impugned proceedings No.HY3079248917116 dated 30.03.2016.

2. Learned counsel appearing on behalf of the petitioner submits that the aforesaid order is illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India apart from being violative of principles of natural justice and contrary to the directions dated 16.04.2015 issued in W.P.No.8198 of 2015.

3. Pursuant to the direction dated 16.04.2015, learned counsel appearing on behalf of the respondents, on instructions, submits that the petitioner has not made any application for issuance of passport, but he made an application for renew of his passport, however, the required form under GSR 570(E) has not been filled up and therefore, the passport has not been renewed.

4. As stated in the petition, in the year 2007, the passport was issued to the petitioner. The first respondent vide public notice No.VIII/410/1/2013 dated 09.12.2013, stated that the International Civil Aviation Organization has set a deadline on 24.11.2015 for globally phasing out all non machine readable passports and from 25.11.2015 onwards the foreign governments may deny visa or entry into any person traveling with a non-MRP passport and all handwritten passports with pasted photos earlier issued by

Government of India are considered non-MRP. Accordingly, those Indian citizens residing in India and abroad and holding the handwritten passports with validity beyond 24.11.2015 should therefore apply for reissue of passport and obtain MRP passports well before deadline in order to avoid inconvenience in obtaining foreign visa or immigration problem.

5. The passport of the petitioner would expire by 18.06.2017 and in view of public notice dated 09.12.2013, petitioner applied for reissue of passport at the Passport Seva Kendram, Vijayawada on 13.02.2015 duly stating that he was convicted for the offence under Section 498-A IPC and preferred appeal against conviction and the sentence of imprisonment was suspended by the appellate Court from time to time. Thereafter, police verification was conducted and second respondent issued proceedings No.HY6078292355915 dated 18.03.2015 refusing passport services to the petitioner under Section 6(2)(f) of the Act on the ground that criminal appeal proceedings are pending before the II Additional District and Sessions Judge, Guntur vide Crl.A.No.381 of 2013.

6. The second respondent vide communication dated 18.03.2015 informed the petitioner that if he produced the certified copy of Court order permitting him to depart from India, they had no objection to extend passport services.

7. Being aggrieved, the petitioner challenged the aforesaid orders in W.P.No.8198 of 2015 and the same was disposed of vide order dated 16.04.2015, holding that no prohibitory order is operating against the petitioner from leaving the country. Accordingly, the second respondent was directed to extend passport services for issue of machine readable passport for

passport No.G-0697614 subject to the petitioner complying with other conditions and requirements in this behalf and also filing an undertaking as envisaged by Clause (d) of Gazette dated 25.08.1993. The second respondent was further directed to issue a passport within one week from the date of receipt of a copy of the said order.

8. Accordingly, the second respondent renewed the passport of the petitioner for one year, which was expired on 23.04.2016. The petitioner again approached the second respondent and at this time also the petitioner received same response as received earlier vide communication dated 18.03.2015. On perusal of both the communications of second respondent, it seems that the second respondent without application of mind has issued communication dated 30.03.2016 asking the petitioner to produce a certified copy of Court order permitting him to depart from India. The fact remains that except the disclosure of the petitioner that he was convicted in the case noted above and appeal is pending before the Court, the second respondent had no communication from any Court.

9. Despite the earlier order passed by this Court in W.P.No.8198 of 2015, the second respondent has issued almost verbatim order vide communication dated 30.03.2016. As stated by the counsel for the respondents that the renewal of the passport is not stuck up due to the Court order, however, the petitioner has not filled up form under GSR 570(E), which is mandatory for revalidating the passport. I find no substance in the submission of the counsel for the respondents for the reason that there is no mention of form under GSR 570(E) in communication dated 30.03.2016. More so, even thereafter, no such intimation

was issued regarding filling of form under GSR 570(E).

10. Be that as may, Sub-clause (d) of G.S.R. 570(E) describes that an applicant citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the Court concerned, appear before it any time during the continuance in force of the passport so issued. The said undertaking can be taken as and when the petitioner visits the office of first respondent. Therefore, sufficient message has been communicated to the respondents and I hope this Court expect the second respondent shall apply his mind while issuing such type of communication which is not only consume the time and money but also burden the Court to compel the aspirants of the passport to file petition before the Court.

11. On this issue, the first respondent is directed to sensitize the officers regarding all these issues so that such type of petitions do not come before the Court. Copy of this order be sent to first respondent for perusal and necessary action.

12. In view of the above discussion, I hereby direct the second respondent to reissue the passport to the petitioner within one week from today.

13. The Writ Petition is, accordingly, allowed with costs of Rs.10,000/- (Rupees ten thousand only) to be paid by the second respondent in favour of Bar Association, Guntur. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

SURESH KUMAR KAIT, J

10th August, 2016

Note:

Issue CC tomorrow.

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