

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT APPEAL No.836 of 2016

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in Writ Petition No. 11261 of 2016 dated 10.8.2016 whereby this Court directed the appellants herein to issue a passport to the respondent-writ petitioner.

The respondent-writ petitioner was convicted for an offence under Section 498-A of the Indian Penal Code in C.C. No. 361 of 2011, against which he preferred Criminal Appeal No. 381 of 2013. By order, in Criminal M.P. No. 210 of 2013 in Criminal Appeal No. 381 of 2013 dated 16.12.2013, the II Additional District and Sessions Judge, Guntur suspended the sentence for a limited period. The said order was extended periodically. As his passport was not accepted, the petitioner filed Writ Petition No. 8198 of 2015, and a learned Single Judge of this Court, by his order dated 16.4.2015, directed the appellants herein to extend passport services, and to issue a machine readable passport, subject to the petitioner complying with the other conditions and requirements, and filing an undertaking as envisaged by clause (d) of Gazette dated 25.8.1993. The learned Single Judge while issuing directions in his order in W.P.No.8198 of 2015 dated 16.04.2015, did not specify the period for which the passport should be issued.

Section 5(2)(c) of the Passports Act, 1967 (for short 'the Act') enables the passport authority, by order in writing, to refuse to

issue a passport. Section 5(3) stipulates that, where an order under Section 5(2)(c) is made, the passport authority may record a brief statement of its reasons for making such order. Section 6(2)(f) requires the passport authority to refuse to issue such a passport, for visiting any country, under Section 5(2)(c) on the ground that proceedings, in respect of an offence alleged to have been committed by the applicant, are pending before a Criminal Court in India. In view of Section 6(2)(c) of the Act, the passport authority was obligated to refuse to grant a passport in cases where proceedings, in respect of an offence, is pending before a Criminal Court. It is not in dispute that the petitioner's appeal is pending before the II Additional District and Sessions Judge, Guntur in Criminal Appeal No. 381 of 2013.

In exercise of the powers conferred by Section 22(a) of the Act, the Central Government issued the notification in G.S.R. No. 570 (E), dated 25.8.1993 exempting 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 Courts concerned permitting them to depart from India, from the operation of the provisions of Section 6(2)(f) of the Act, subject to the conditions stipulated therein. Clause (a) of G.S.R. No.570(E) stipulates that passports shall be issued to every such citizen (i) for the period specified in the order of the Court when the Court specifies the period for which the passport has to be issued; or (2) if no period for the issue of the passport is specified in such order, the passport shall be issued for a period of one year. Clause (d) requires the citizens to give an undertaking in writing, to the Passport Issuing

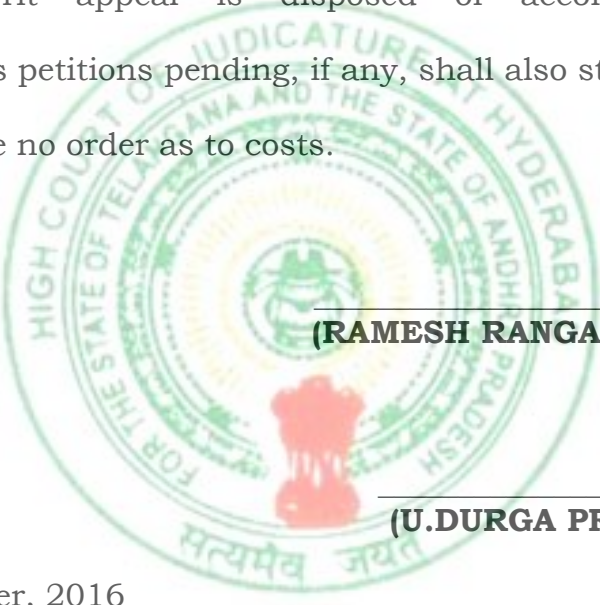
Authority, that he shall, if required by the Court concerned, appear before it at any time during the continuance in force of the passport so issued. As no duration was specified for issue of a passport, in the order in Writ Petition No. 8198 of 2015 dated 16.4.2015, the passport authority issued the passport for one year which expired in April, 2016.

Seeking renewal of the passport, the petitioner invoked the jurisdiction of this Court by way of Writ Petition No. 11261 of 2016 which was allowed at the stage of admission by order dated 10.8.2016. Since the requirement of Clauses (a)(i) and (ii) of the Rules, notified in G.S.R.No. 570 (E), dated 25.8.1993, was not brought to his notice, and as the learned Single Judge has not specified the period for which the passport is required to be issued, the appellants herein have issued a passport, to the respondent-writ petitioner, for a period of one year. The appellants herein have preferred this appeal aggrieved by the observations made by the Learned Single Judge, in the order under appeal, and by imposition of costs.

Sri P. Ponna Rao, learned Counsel for the appellants, would submit that the appellants have merely complied with the aforesaid rules and the observations made in the judgment under appeal, against their conduct and imposition of costs on them, is not justified. Sri T. Sricharan, learned counsel for the respondent-writ petitioner, would submit that, since a passport has been issued in terms of the aforesaid rules for a period of one year, the petitioner has no further grievance.

As the period, for which the passport should be issued, has not been stipulated in the order under appeal, the appellants herein were justified, in terms of the Rules notified in G.S.R.No.570(E) dated 25.08.1993, in issuing the passport only for a period of one year. The order of the learned Single Judge, to the extent he directed the appellants herein to issue a passport, is upheld. The observations made against the appellant's conduct, and imposition of cost of Rs.10,000/- on them, is, however, set aside.

The writ appeal is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

12th September, 2016
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Date:12.9.2016

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