

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2017

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THE HONOURABLE MR. JUSTICE M.DURAI SWAMY

W.P.No.6706 of 2017

Karuppaswamy

[ Petitioner ]

Vs

The Regional Passport Officer  
Regional Passport Office  
Corporation Commercial Complex  
Opp. Thandumariamman Koil  
Avinashi Road, Coimbatore 18

[ Respondent]

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to entertain the petitioners fresh passport application and consider the same by taking note of circular issued by the Ministry of External Affairs, Government of India, in its proceedings No. V. 1/401/1/3/ 2014 dated 21.08.2014 and undertaking proforma of the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.N.Vijaya Baskar, SC

ORDER

Heard the learned counsel for the petitioner and Mr.N.Vijaya Baskar, learned Standing Counsel for the respondent and perused the materials available on record.

2. The petitioner has filed the above Writ Petition to issue a Writ of mandamus directing the respondent to entertain his fresh passport application and consider the same, by taking note of Circular issued by the Ministry of External Affairs, Government of India, in its proceedings dated 21.08.2014 and his undertaking proforma.

3. It is the case of the petitioner that the Avinashi Police filed a charge sheet against him in C.C.No.199 of 2012 on the file of the Judicial Magistrate, Avinashi, Tiruppur District. It is the further case of the petitioner that when he applied for issuance of passport before the respondent, he

refused to receive the passport stating the pendency of criminal case against him.

4. Mr.C.Prakasam, learned counsel appearing for the petitioner submitted that in view of the Circular issued by the Ministry of External Affairs dated 21.08.2014, the passport application of the citizens against whom proceedings are pending before the Criminal Court can be processed and passport can be issued to them. The learned counsel relied upon clause 2 and 3 of the Circular dated 21.08.2014, which read as follows:-

"2. As prescribed, an applicant is required to submit permission of the concerned court as well as an undertaking in writing on plain paper, as provided at para 1(d) of GSR 570 (E). A need has been felt to prescribe a standard format of undertaking for easy reference for citizens and Passport Issuing Authorities. The proforma of undertaking in this regard is enclosed. This format is also being uploaded on the passport portal for applicants.

3. Whenever any applicant against whom proceedings before a criminal court are pending approaches any Passport Issuing Authority for the passport services, a copy of Gazette notification and proforma undertaking can be given to him/her with a covering letter directing him/her to fulfil the requirements prescribed in the Gazette notification. On submission of the same, his/her passport application may be processed and passport may be issued as per the provisions of the GSR 570(E) and the contents of the court order. Needless to mention that the other documents/requirements as applicable to other passport applicants are also required to be sought".

5. The respondent filed their counter stating that since criminal case is pending against the petitioner, he should get permission from the trial Court before departing from India. Further, the respondent has stated that the petitioner should produce the order of the Court for acquittal or permission to issue Passport to depart from India.

6. Since the Circular dated 21.08.2014 issued by the

Ministry of External Affairs is very clear, I am of the view that the petitioner's application for the issuance of passport can be processed by the respondent and passport can be issued to him, if it is otherwise in order. It is pertinent to note that it is also not the case of the respondent that the petitioner has been convicted for the offences made in C.C.No.199 of 2012.

7. In these circumstances, I direct the respondent to consider the petitioner's application for issuance of passport and issue the same to him, if it is otherwise in order, within a period of two weeks from the date of receipt of a copy of this order. However, the petitioner is directed to surrender the passport before the Judicial Magistrate Court, Avinashi, Tiruppur District in C.C.No.199 of 2012 and in the event of the petitioner travelling abroad, he should get prior permission from the Judicial Magistrate Court, Avinashi and get return of the passport for travelling abroad. On receiving the application made by the petitioner for return of passport, the learned Judicial Magistrate, Avinashi shall decide the same, in accordance with law.

8. With these observations, the Writ Petition is disposed of. No costs.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Passport Officer  
Regional Passport Office  
Corporation Commercial Complex  
Opp. Thandumariamman Koil  
Avinashi Road, Coimbatore 18
2. The Judicial Magistrate, Avinashi,  
Coimbatore District.

+lcc to Mr.C.Prakasam, Advocate, S.R.No.40207  
+lcc to Mr.N.Vijaya Baskar, SC, Advocate, S.R.No.39947

W.P.No.6706 of 2017

NR(CO)  
CS/07/06/17