

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.28086 of 2016

Moosa

.. Petitioner

Vs.

The Regional Passport Officer,
Rayala Towers - 4th Floor,
Chennai-600 002.

... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondent to issue a passport to the petitioner in pursuance of his application dated 18.11.2014 by treating the application for issuance of the fresh passport since the period of earlier passport has expired on 29.09.2015.

For Petitioner: Mr.T.Saikrishnan
for M/s. Sai Bharath and Ilan

For Respondent : Mr.C.V.Ramachandramurthy
Standing Counsel

O R D E R

This writ petition is filed seeking for a Mandamus to direct the respondent to issue a passport to the petitioner in pursuant to his application dated 18.11.2014 by treating the application for issuance of a fresh passport since the period of the earlier passport has expired on 29.09.2015.

2. The respondent filed a counter affidavit, wherein it is stated at paragraph Nos.13 to 15 as follows:

"13. I submit that, this office vide letter No's MA2078079794314 dated 05.10.2016, 23.12.2016 and 06.02.2017 had sent reminder letters to the Principal Chief Conservator of Forests, Hyderabad to specifically state,

whether the criminal cases registered against the petitioner are still pending before any Court of law and yet to receive any reply.

14. I submit that the petitioner called at this office on 10.3.2017 and furnished the acquittal order in CC No.189/2003. Further, he also requested this office that the O/o the Principal Chief conservator of Forests, Andhra Pradesh has been shifted to new address i.e. at Guntur. Based on the petitioner's request, this office referred his case to the Principal Chief conservator of Forests, Guntur, Andhra Pradesh on 22.3.2017 to specifically state, whether the criminal cases registered against the petitioner are still pending before any Court of Law and yet to receive any reply.

15. Under such circumstances, in accordance with Passports Act, 1967 and in terms of instructions contained in the Passport Manual, this respondent had to await clear remarks from the Principal Chief Conservator of Forests, Andhra Pradesh and initiation of the proceedings are also admitted by the petitioner and disputes only the pendency. When the petitioner could not get clean chit from the above said authorities, it is imperative that, the petitioner does not deserve any indulgence."

3. Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondent.

4. Learned counsel for the petitioner vehemently contended that there is no necessity for the respondent to seek clearance from the Principal Chief Conservator of Forest, Hyderabad, for considering the case of the petitioner and therefore, this Court can issue a positive mandamus directing the respondent to issue passport to the petitioner, based on the application dated 18.11.2014.

5. On the other hand, the learned standing counsel for the respondent submitted that inspite of repeated reminder made by the respondent to the said official, namely, Principal Chief Conservator of Forest, Hyderabad, and again to Principal Chief Conservator of Forest, Guntur, the respondent is still awaiting for the clear remarks from the said officials.

6. No doubt, the petitioner, in support of the writ petition raised various contentions in the affidavit and the respondent has also filed a counter affidavit indicating the reason for the delay. This Court, at this stage, is not inclined to express any view on the rival contentions of the parties, as the present writ petition is filed only seeking a mandamus to issue a passport to the petitioner, based on his application dated 18.11.2014. Admittedly, the said application has not been disposed of by the respondent so far. When the said application is still pending, this Court is not inclined to issue any positive mandamus, as it is for the respondent to consider the said application and pass orders on the same on merits and in accordance with law. However, considering the fact that the application was made as early as on 18.11.2014 and the same is kept pending for nearly three years, it is for the respondent to dispose of the said application without any further delay.

7. Thus, this writ petition is disposed of by directing the respondent to pass orders on the petitioner's application dated 18.11.2014 on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order, after giving due opportunity of hearing to the petitioner as well. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

The Regional Passport Officer,
Rayala Towers - 4th Floor,
Chennai-600 002.

+2CC TO M/s.Sai, Bharath & Ilan, Advocate sr.76595

+1cc to Mr.S.V.Ramachandramurthy, Advocate sr.76471

W.P.No.28086 of 2016

ss(31/10/2017)