

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

W.P. No. 44435 of 2016

Aashif Ajmal (Minor)

rep. by his mother and natural guardian

Anies Banu

...Petitioner

Vs

1. The Union of India,
rep. by its Secretary,
Ministry of External Affairs,
New Delhi.

2. The Regional Passport Officer,
Regional Passport Office,
Chennai.

...Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the 2nd respondent to issue passport to the petitioner Aashif Ajmal.

For Petitioner : Mr. S. Ravichandran

For Respondents : Ms. N. Premalatha
for Mr. C.G. Kumar, CGSC.

सत्यमेव जयते
O R D E R

The petitioner has filed the above writ petition to issue Writ of Mandamus directing the 2nd respondent to issue passport to the petitioner Aashif Ajmal.

2. The petitioner is the son of natural guardian Anies Banu and one Sheik Syed Ali. In the proceedings in O.S. No. 590 of 2014 on the file of Additional District Munsiff, Poonamallee, the petitioner's mother sought for divorce. The trial court, by its decree dated 06.04.2016, dissolved the marriage between her and Sheik Syed Ali.

3. Subsequently, on 23.09.2016, she got married to one S. Mohammed Sherin. According to the petitioner's mother, the said S. Mohammed Sherin is taking care of herself and her son as step father. Thereafter, the petitioner applied for passport with the 2nd respondent on 17.11.2016. The mother and son also appeared before them and produced necessary documents. The 2nd respondent insisted to produce consent letter from the biological father for issuance of passport.

4. In the counter filed by the 2nd respondent, in Paragraph No.9, it has been stated as follows;

"I state that in view of the significant relaxation given by the 1st respondent Ministry for such cases, it will be necessary for the petitioner herein to either produce the biological father's consent or give a declaration as per the format in Annexure 'C' (specimen declaration by applicant's parent for issue of passport to minor when one parent has not given consent) in order to enable this respondent to consider the application for grant of passport to the petitioner herein, provided the application is otherwise in order."

5. On a reading of the above, it is clear that in the absence of consent letter given by biological father, a declaration given as per format in Annexure 'C' by one parent is sufficient for processing the passport application.

6. The learned counsel for the petitioner submitted that the petitioner's mother is willing to give declaration as required by the 2nd respondent as per format in the Annexure 'C'.

7. The learned Standing Counsel appearing for the 2nd respondent submitted that in the absence of consent letter and if the petitioner submit the declaration along with all necessary documents, the 2nd respondent is willing to process the application for issuance of passport to the minor petitioner.

8. Having regard to the submissions made by the learned counsel on either side, taking into consideration the limited prayer sought for in the Writ Petition, without expressing any opinion with regard to the merits of the case, I direct the petitioner's mother viz., Anies Banu, to give a declaration as per format in Annexure 'C' before the 2nd respondent along with all necessary documents and on receipt of declaration with all necessary documents, the 2nd respondent is directed to consider the same and issue passport to the minor petitioner, if the application is otherwise in order. The petitioner shall produce necessary documents within one week

from the date of receipt of a copy of this order. The 2nd respondent shall process the application and if otherwise in order, issue passport to the minor petitioner within two weeks thereafter.

With these observations, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
Union of India,
Ministry of External Affairs,
New Delhi.
2. The Regional Passport Officer,
Regional Passport Office,
Chennai.

+1cc to Mr.S.Ravichandran, Advocate Sr.24959

सत्यमेव जयते

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