



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.(MD)No.21621 of 2017

and

W.M.P(MD)Nos.17903 to 17905 of 2017

I.Thomas Issac

... Petitioner

Vs.

1.The Ministry of Foreign Affairs,
Government of India,
Rep. by its Secretary,
New Delhi.

2.The Regional Passport Officer,
Madurai, Madurai District.

3.The Inspector of Police,
Palavoor Police Station,
Tirunelveli District.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the proceedings of the impugned order in Letter Ref.No:SCN/306173967/17 dated 24.10.2017 on the file of the second respondent and quash the same.

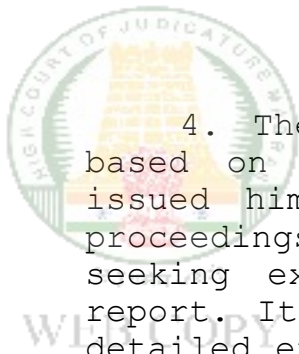
For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.G.Rajaraman for R.1, R.2
Mr.T.S.Mohamed Mohideen,
Additional Government Pleader
for R.3

ORDER

By consent, this writ petition is taken up for final disposal, at the stage of admission itself.

2. This writ petition has been filed by the petitioner, challenging the impugned order of the second respondent dated 24.10.2017, vide which, he was directed to surrender his passport.

3. Mr.G.Rajaraman, learned Counsel takes notice for respondents 1 & 2. Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader takes notice for the third respondent.



4. The learned Counsel for the petitioner would submit that based on his application dated 18.08.2017, the authorities had issued him a passport bearing No.R3075358 on 21.08.2017 and by proceedings dated 11.09.2017, he was called for by the authorities seeking explanation, with regard to adverse police verification report. It is his specific contention that though he submitted his detailed explanation, the present impugned order came to be passed, directing him to surrender his passport, with a specific note that in the event of non-surrendering of the passport, the same will be impounded without any further reference. Aggrieved thereby, the petitioner is before this Court, questioning the same.

5. On the other hand, the learned Counsel appearing for the second respondent, on instructions, would submit that while processing the petitioner's application, the pendency of certain criminal cases got revealed by police verification report and on that basis, the petitioner was issued with a show cause notice, followed by which, the authorities have passed the present impugned order.

6. In reply to such a stand, the learned Counsel for the petitioner submitted that no charge sheet was served on him, till date and the appropriate criminal Court has not taken cognizance against him. While such being so, the authorities had passed a one line impugned order, without assigning any reason, which is unjustifiable.

7. Heard both sides and perused the records placed on record.

8. A perusal of the impugned order would amply reveal the fact that it is in the form of a non-speaking order. The Hon'ble Supreme Court and this Court time and again insisted on the requirement of recording reasons and the quasi judicial order must be a speaking one. The Hon'ble Supreme Court in the case of Mahabir Prasad Santosh Kumar vs. State of U.P., reported in (1970) 1 SCC 764 held that merely giving an opportunity of hearing is not enough and further pointed out that where the order is subject to appeal, the necessity to record reason is even greater. Recording of reasons in support of a decision on a disputed claim would ensure that the decision is not a result of caprice, whim or fancy, but was arrived at after considering the relevant law and that the decision was just.

9. In that view of the matter, the impugned order would not stand in the eye of law and the same is liable to set aside.

10. In result, this writ petition is allowed. The impugned order dated 24.10.2017 is set aside and the matter is remitted to the second respondent for fresh consideration, who, in turn, shall pass a detailed order, in this issue, in one way or the other, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently,



connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

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Sub Assistant Registrar.

To

1.The Secretary to Government of India,
The Ministry of Foreign Affairs,
New Delhi.

2.The Regional Passport Officer,
Madurai, Madurai District.

3.The Inspector of Police,
Palavoor Police Station,
Tirunelveli District.

+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No. 89154

+1CC to Mr.G.Rajaraman, Advocate, SR.No. 88854

+1CC to the Special Government Pleader SR.No.89630

W.P.(MD)No.21621 of 2017

gk

AM/SKN RSK/SAR 2/27.11.2017/3P/7C