



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.22438 of 2017

A.Abdul Muthalif

... Petitioner

Vs.

1. The Passport Officer,
Madurai Regional Passport Office,
Madurai Ula Veethi,
Race Course Road,
Madurai.

2. The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to renew and reissuance of the petitioner's passport application in file number "MD107062563117" dated 16.10.2017, for the purpose of going abroad to visit "Mecca" for performing his religious duties from the date of 18.01.2018 to 05.02.2018.

For Petitioner

: Mr.S.Mahalingam

For Respondents

: Mr.V.Kathirvelu,

Assistant Solicitor General of India
for Mr.C.Nandagopal for R1

Mr.T.S.Mohamed Mohideen

Additional Government Pleader
for R2

ORDER

Alleging that the first respondent has kept the petitioner's passport application in "MD107062563117", for renewal, pending, citing the pendency of some criminal cases, the petitioner is before this Court for appropriate relief.

2. By consent, this writ petition itself is taken up for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Mr.V.Kathirvelu, learned Assistant Solicitor General of India, for Mr.C.Nandagopal, learned Counsel, takes notice for the



first respondent. Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader, takes notice for the second respondent.

4. The learned Counsel for the petitioner submitted that the petitioner is an active member of a Political Party in Tamil Nadu and has submitted an application on 16.10.2017, seeking renewal of his passport, which has been kept pending on the reasoning that two FIRs in Crime Nos.164 & 274 of 2017 for the offences under Sections 143, 188 & 341 IPC have been registered against him. According to the petitioner, he took part in a protest, along with his party members, for public welfare, for which, the said cases were *suo-motu* registered and no summon from any Court of Law was issued. The petitioner has also relied upon a judgment of the Hon'ble Division Bench of this Court in the case of **W.Jaihar William vs. The State of Tamil Nadu [W.P. (MD) Nos.8343 to 8350 of 20140] decided on 27.06.2014** in support of his submission that mere pendency of a criminal case is not a ground for refusing to issue/renew passport. Hence, aggrieved by the overall act of the respondents, the petitioner is before this Court.

5. The learned Assistant Solicitor General appearing for the 1st respondent has contended that while processing the petitioner's application, the pendency of criminal proceedings was reported by the police officials and the petitioner himself admitted the same. Therefore, as per section 6(2)(f) of Indian Passports Act, 1967, the authorities had rejected his claim.

6. In reply to this stand taken by the 1st respondent, the learned Counsel appearing for the petitioner placed reliance upon the order of this Court in the case of **N.Chandrababu Vs. The Sub Inspector of Police in W.P. (MD) No.7056 of 2017**, wherein, this Court has held as follows:

"7. On a conspectus of the facts obtaining in this case, this Court is of the view that this is a fit case for which permission should be granted to the petitioner to go abroad. Under such circumstances, this Court permits the petitioner to depart from India and return on 30th May 2017. In view of the permission granted by this Court, the Passport authorities are directed to exempt the petitioner from the operation of the provisions of Clause (f) of sub-Section (2) of Section 6 of the Passports Act. The petitioner shall give an undertaking as contemplated by Clause (d) of the Notification dated 25.08.1993. The petitioner will be entitled to keep the passport with him, in view of the fact that this Court has granted stay of all further proceedings in C.C. No.21 of 2015 and it may not be necessary for the petitioner to come every time to this Court seeking permission to go abroad. Accordingly, this writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed."

7. Heard the learned Counsel for the parties.

8. A careful scrutiny of the order **dated 21.04.2017** passed in **N.Chandrababu Vs. The Sub Inspector of Police in W.P.(MD)No.7056 of 2017** would reveal that in the said case, this Court has clearly observed that though the concerned Trial Court had taken cognizance of the offence, pursuant to the subsequent stay granted by this Court, which was in force at that point of time, nothing prevented the Passport authorities to issue Passport to the petitioner therein. But, in the present case on hand, till now, neither even a charge sheet has been filed before the concerned Trial Court nor cognizance has been taken by any Court of Law and therefore, it may be presumed that the case is only at the FIR stage and mere pendency of the criminal case cannot be cited as a reason for denial of issuance of Passport to the petitioner.

9. Hence, following the judgment of this Court (cited supra), this writ petition is disposed of, directing the 1st respondent to consider the Application No.MD107062563117 dated 16.10.2017 of the petitioner seeking renewal of passport and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order, especially bearing in mind the order passed by this Court in N.Chandrababu Vs. The Sub Inspector of Police in W.P.(MD)No.7056 of 2017. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 92099
+ 1 CC TO Mr.S.MAHALINGAM, ADVOCATE IN SR No. 91368
+ 2 CC TO Mr.C.NANDAGOPAL, ADVOCATE IN SR No. 91771

GK

TE/SV-MMS/SAR-1 : 19/12/2017 : 3P/6C

ORDER MADE IN
W.P (MD) No.22438 of 2017
07.12.2017