



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.22855 of 2017

and

W.M.P(MD)Nos.19156 and 19157 of 2017

R.Chiranjeevi Rathnam

.. Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office,
Government of India, Madurai.

2.The Chief Passport Officer,
Ministry of External Affairs,
Tilak Marg, New Delhi - 110 001.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the proceedings dated 04.08.2017 vide No.VIII/402/App-45/17 on the file of second respondent in so far as the direction to the first respondent to issue fresh show cause notice and to take further action as per provisions of the Passport Act, 1967 and consequent impugned show cause notice dated 14.11.2017 under letter Ref.No.SCN/306288791/17 on the file of first respondent and quash the same.

For Petitioner

: Mr.R.Maheswaran

For Respondents

: Mr.G.Rajaraman

ORDER

This writ petition is filed seeking a writ of Certiorari to quash the impugned proceedings, dated 04.08.2017, made in No.VIII/402/App-45/17, by the second respondent, in so far as the direction to the first respondent to issue fresh show cause notice and to take further action as per the provisions of the Passport Act, 1967, and the consequent show cause notice, dated 14.11.2017, made in Ref.No.SCN/306288791/17, by the first respondent.

2.Mr.G.Rajaraman, learned counsel, takes notice for the respondents.

3.By consent of both the parties, this writ petition is taken up for final hearing at the stage of admission itself.



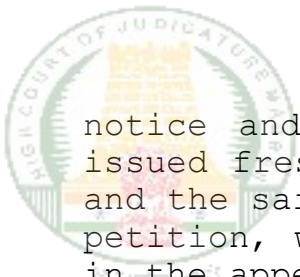
4. Heard both sides.

5. According to the petitioner, he is a resident of Sivakasi and he was issued with a passport under Passport No. Z4046044 by the respondents. The first respondent, by his communication, dated 26.12.2016, called for explanation from the petitioner, as to why the said passport was not to be impounded due to the pendency of the criminal case in Crime No. 17 of 2016, registered under Sections 465 and 468 IPC, on the file of District Crime Branch, Virudhunagar. Thereafter, the first respondent, passed an order, dated 23.05.2017, impounding his passport under Section 10(3)(e) of the Passports Act, 1967. The petitioner submitted his detailed reply to the first respondent, on 25.05.2017. Subsequently, he filed an appeal before the second respondent and the second respondent, on considering his appeal, set aside the order passed by the first respondent and also directed the first respondent to issue fresh show cause notice and take further action. Following the same, the first respondent issued a fresh show cause notice, dated 14.11.2017, calling upon him to explain as to why, his passport should not be impounded. Aggrieved over the same, the petitioner is before this Court with the aforesaid prayer.

6. The learned counsel appearing for the petitioner would submit that the petitioner filed an appeal before the second respondent and the second respondent set aside the order passed by the first respondent and directed the first respondent to issue fresh show cause notice and take further action.

7. The learned counsel appearing for the respondents would submit that as per the order passed by the second respondent, in the appeal, the first respondent has rightly issued the impugned show cause notice and therefore, the petitioner has to file his objections for the same and therefore, the impugned show cause notice warrants no interference.

8. Earlier, the petitioner filed an appeal before the second respondent, against the order of the first respondent, impounding his passport and since the same was not disposed of, he approached this Court, by filing W.P(MD)No.11575 of 2017, wherein, this Court, directed the second respondent to consider and pass orders on the appeal on merits and in accordance with law, in the light of the Judgment of this Court reported in (2014) 8 MLJ 61 in the case of W.Jaihar William and others Vs. State of Tamil Nadu, rep. by its Secretary to Government, Chennai and Others and the Judgments passed in W.P(MD)No.47 of 2017 and W.P(MD)No.7024 of 2017 and following the same, the second respondent set aside the order of the first respondent and also directed the first respondent to issue fresh show cause notice and take further action. Since, the appellate authority viz., second respondent directed the first respondent viz., fact finding authority to issue fresh show cause



notice and take further action, the first respondent has rightly issued fresh show cause notice, dated 14.11.2017, to the petitioner and the said proceeding is going on, the challenge made in this writ petition, with regard to the order passed by the second respondent, in the appeal, may not survive.

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9. Secondly, the impugned order passed by the first respondent, is nothing, but a show cause notice. It is well settled that in the event of violation of fundamental rights or infringement of any legal right either under the Statute or under any other laws and violation of principles of natural justice, an individual may approach this Court, seeking interference of this Court. In the absence of any such ingredients and legal right, it is not appropriate for the petitioner to seek remedy by merely challenging the show cause notice. The course adopted by the petitioner, namely, having not chosen to submit his explanation, in the considered view of this Court, does not have any legs to stand. The Hon'ble Supreme Court in the case of *Union of India and another vs. Kunisetty Satyanarayana*, reported in (2007) 1 SCT 452, has been pleased to lay down as under:

"It is well settled by a series of decision of this Court that ordinarily no writ lies against a charge sheet or show cause notice vide *Executive Engineer, Bihar State Housing Board vs. Ramdish Kumar Singh and others* JT 1995 (8) SC 331, *Special Director and another vs. Mohd. Ghulam Ghouse and another* in 2004 (1) SCT671 (SC), *Ulagappa and others vs. Divisional Commissioner, Mysore and others* (2001) 10 SCC 639, *State of U.P. vs. Brahm Dutt Sharma and another* in AIR 1987 SC 943 etc."

10. The Hon'ble Supreme Court in the very same Judgment (cited supra) held that in some very rare and exceptional cases, the High Court can set aside the show cause notice, if it is found to be without jurisdiction, or for some other reason, if it is wholly illegal, otherwise the High Court should not interfere. In the absence of any such violation and infringement of rights, there is no scope for this Court to interfere with the show cause notice impugned in this writ petition.

11. At this juncture, the learned counsel appearing for the petitioner would submit that the petitioner agrees to file his objections, to the show cause notice, dated 14.11.2017, issued by the first respondent, within a period of two weeks.

12. Under such circumstances, while declining to interfere with the orders impugned herein, this writ petition is disposed of, permitting the petitioner to file necessary objections, to the show cause notice, dated 14.11.2017, issued by the first respondent, within a period of two weeks from the date of receipt of a copy of this order and on such filing, the first respondent shall consider the same and pass appropriate orders, on its own merit and in accordance with law, after affording due opportunity of hearing to



the petitioner, within a period of four weeks, thereafter. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar (AS)

Sub-Assistant Registrar

To

1.The Regional Passport Officer,
Regional Passport Office,
Government of India, Madurai.

2.The Chief Passport Officer,
Ministry of External Affairs,
Tilak Marg, New Delhi - 110 001.

+One cc to Mr.G.Prabhu Rajadurai, Advocate, SR.No.92695

+One cc to Mr.G.Rajaraman, Advocate, SR.No.92502

mn
RL/5C/4P/MR/SAR1/9/1/2018

ORDER MADE IN
W.P (MD) No.22855 of 2017
and
W.M.P (MD) Nos.19156 and 19157 of 2017

13.12.2017