



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

W.P. (MD) No.19826 of 2016

Mohamed Habiz

... Petitioner

Vs.

1. The Regional Passport Officer,
Regional Passport Office Trichirapalli,
Municipal Water Tank Building,
W.B.Road,
Trichirapalli - 620 008.

2. The Superintendent of Police,
District Police Office,
Thanjavur District.

3. The Inspector of Police,
G5 Police Station,
Sethubava Chathiram,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to issue the petitioner's passport in respect of his application in File No.TR1067852319714 dated 01.08.2014.

For Petitioner : Mr.S.A.S.Alaudeen
For Respondents : Mr.P.Paul Pandi - For R1
: Mr.T.S.Mohamed Mohideen - For R2 & R3
Additional Government Pleader

O R D E R

This writ petition has been filed, seeking a direction to the first respondent to issue the petitioner's passport in respect of his application in File No.TR1067852319714 dated 01.08.2014.

2. It is the case of the petitioner that he had made an online application seeking passport on 01.08.2014 under Ref.No. TR1067852319714 and the same has been kept pending on the reasoning that a case in Crime No.96 of 2014 has been registered against the petitioner and others and a charge sheet was also filed for the offence under Section 107 of Cr.P.C. It is the further case of the petitioner that the above case has been quashed by this Court in CrI.O.P.No.1150 of 2015 dated 22.01.2015. Even then also the first respondent refused to issue passport to



the petitioner. Hence, aggrieved by the overall act of the respondents, the petitioner is before this Court with the above direction.

3. The learned Counsel appearing for the respondent has filed a detailed counter affidavit contending that while processing the petitioner's application, the pendency of criminal proceedings was reported by the police officials and the case has been pending before the Hon'ble Revenue Divisional Officer and Sub-Divisional Magistrate, Pattukkottai Taluk, Thanjavur District for enquiry. Therefore, as per section 6(2)(f) of Indian Passports Act, 1967, the authorities had rejected his claim.

4. 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*** in support of his submission, 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."

5. Heard the learned Counsel for the parties.

6. 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.



7. In the present case on hand, though it was reported that a case in Crime No.96 of 2014, under Section 107 of Cr.P.C. was registered against the petitioner and the same has been quashed by this Court in Crl.O.P.No.1150 of 2015 dated 22.01.2015.

8. Hence, following the judgment of this Court (cited supra), this writ petition is disposed of, directing the first respondent to consider the application of the petitioner seeking passport under Ref.No.TR1067852319714 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 in the light of the order of this Court in **N.Chandrababu Vs. The Sub Inspector of Police in W.P. (MD)No.7056 of 2017**. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

1. The Regional Passport Officer,
Regional Passport Office Trichirapalli,
Municipal Water Tank Building,
W.B.Road,
Trichirapalli - 620 008.
2. The Superintendent of Police,
District Police Office,
Thanjavur District.
3. The Inspector of Police,
G5 Police Station,
Sethubava Chathiram,
Thanjavur District.

+1cc to Mr.S.A.S.Alaudeen, Advocate Sr.No.91096

+1cc to Mr.P.Paul Pandi ,Advocate Sr.No.91081

+1cc to Spl.Government Pleader Sr.No.91806

RM

VB/JC/SAR4/20/12/2017/3P/7C

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