

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.4683 OF 2011

ORDER:

The relief sought for in this Writ Petition is to declare the action of the respondents, in not receiving the Passport Applications of the petitioner's children viz., Nicolas Thierry Jean Laurent Pastor & Tara Marie Madeleine Colette, as arbitrary and illegal.

The petitioner claims that these two minor children were born out of wedlock; the children are living with him; and though he had produced the birth certificates, and the DNA reports show that he was the father of the children, the respondent authorities have refused to issue Passports in the name of the children on the sole ground that the estranged mother, of the children, did not come before the Passport Officer.

A counter-affidavit is filed by the Passport Officer wherein it is stated that the Government of India Regulations require consent of both the parents for issue of a Passport to the minor children; both the parents are required to furnish their Passports; if the marital relationship of the parents is not established through their Passports, then additional documents are mandatory; in the present case, consent of the mother was not furnished nor was her passport/proof of marriage furnished to the office; while provision has been made in the Regulations, in the case of children born to parents out of wedlock to Indian citizens, and a single parent is entitled to apply for a child passport on the basis of a notarised affidavit, the said Regulations do not apply to the petitioner as he is a French National; and the petitioner was free to obtain passports for his children from the French Embassy.

As the Regulations in force do not permit issuance of a passport, it would be wholly inappropriate for this Court to issue a mandamus to the respondents to violate the law. Even otherwise, the counter-affidavit shows that the petitioner could have obtained a French passport from the French Embassy. I see no reason, therefore, to grant the relief sought for in the Writ Petition. The Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Date: 15.12.2017.
MRKR

