IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2018
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.8921 of 2018

P.Ganesan ... Petitioner

Vs

The Passport Officer,
Regional Passport Office,
No.158 Anna Salai,
Chennai-600002. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to reissue a fresh passport bearing No.Z2947726 to the petitioner.

For Petitioner : Mr.P.V.Sudhakar
For Respondent : Mr.K.Srinivasa Murthy,
Senior Panel Counsel

O R D E R

The prayer made in this writ petition is to direct the respondent to reissue the passport, since all the pages in the old passport bearing No.Z2947726 came to be exhausted.

2.It is the case of the petitioner that he is a citizen of India and is dealing with the business of stationery and electronic items. He was issued a passport bearing No.Z2947726 on 11.08.2014, which is valid upto 10.08.2024. The petitioner used to visit many countries for business purpose, as a result of which, all the pages in his passport got exhausted. Hence, he made an application dated 21.06.2017 to the respondent requesting to re-issue a fresh passport. Since the said application was not considered, he approached the respondent in person and at that time, he was informed that his application is pending for enquiry. According to the petitioner, till date, there was no development with regard to his claim and hence, he has no other alternative except to approach this Court with the present writ petition for the aforesaid relief.

3.Upon notice, the respondent filed a detailed counter affidavit dated 24.04.2018, inter alia stating that under Section 5(2) of the Passports Act, 1967 (shortly "the Act"), the

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passport authority is vested with powers to make inquiry as deemed necessary and pass orders on completion of such enquiry. As far as the application of the petitioner is concerned, the same was not refused, but kept on hold for want of reports from the Deputy Superintendent of Police, Q Branch CID, Chennai and Deputy Superintendent of Police, SC/ST Cell, Chennai.

4.Reiterating the averments made in the counter affidavit, the learned standing counsel appearing for the respondent submitted that after the receipt of the required informations from the other agencies, such as, 'Q' Branch CID and SC/ST Cell, the issue relating to re-issuance of the passport to the petitioner will be considered by the respondent

5.The submission so made by the learned counsel for the respondent is seriously disputed by the learned counsel for the petitioner. According to him, it is not a case of renewal or seeking a fresh passport, but, the petitioner seeks only re-issuance of passport, since all the pages of his passport got exhausted. However, the respondent is taking more than a year to complete the enquiry and reissue a fresh passport to the petitioner, which is arbitrary, unfair and unreasonable.

5.Heard both sides and perused the records.

6.Concededly, the petitioner is a holder of passport bearing No.Z2947726, which is valid till 10.08.2024. As the pages in his passport got exhausted, he made an application on 21.06.2017 for reissuance of a fresh passport, which was taken on file by the respondent as No.MA1070347524317. However, the said application is still pending, without any progress, for want of verification by various investigation agencies.

7.This Court has no disagreement with the power of the passport authority, to issue a passport, after making enquiry, under Sub-section (2) of Section 5, of the Act. However, it should be within a fair and reasonable time, as the passport is a document, which regulates the right of a person to travel abroad. Further, the petitioner seeks only re-issuance of a fresh passport, since all the pages in his passport got exhausted and his application is not for renewal or fresh passport. Such being the case, the inordinate delay on the part of the respondent in completing the enquiry and reissuing the passport cannot be countenanced by this Court, as it amounts to refusal of passport to the petitioner.

8.At this juncture, it is relevant to point out the observation of the Himachal Pradesh High Court in Ikhlaq Mohammed v. Union of India, [AIR 1983 Him Pra 75], wherein, it has been observed as follows:

> "In the instant case, the passport authority neither granted nor refused the passport to the petitioners. For a period of two years, as already seated, nothing was done. Whenever a

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> statute enjoins upon an authority to do an act, it is required to be done within a reasonable time. The passport authority, therefore, could not sit on the applications for years together and take away the rights of the citizen to passports. Period of two years, which has elapsed since the petitioners made applications, is much more than reasonable. After going through the record, we find that the only reason for not deciding the applications was refusal of the passport authority to do anything in the matter. By this conduct the passport authority has refused passports to the petitioners without any rhyme or reason in contravention of Section 5 (3) of the Act."

9.In such perspective of the matter, this Court deems it appropriate to give appropriate direction to the respondent.

10.Accordingly, this writ petition stands disposed of, directing the respondent to get the required information from the other investigation agencies, within a period of two weeks from the date of receipt of a copy of this order and thereafter, issue a new passport to the petitioner. If the informations furnished by the agencies are not favourable to the petitioner, necessary enquiry be conducted, after affording opportunity to the petitioner and pass necessary orders. No costs.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

bkn/dna

To

The Passport Officer,
Regional Passport Office,
No.158 Anna Salai,
Chennai-600002.

+1cc to Mr.P.V.Sudhakar, Advocate SR.No.58473
+1cc to Mr.K.Srinivasa Murthy, Advocate SR.No.58671

W.P.No.8921 of 2018

KJ(CO)
GN(30/08/2018)

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