

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.3585 of 2017

and

WMP.No.3618 of 2017

Padma Korada

... Petitioner

Vs

The Regional Passport Office,
Rayala Towers
No.2 & 3, IV Floor
New No.158, Anna Salai,
Chennai - 600 002.

... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondent to reissue the petitioner's passport within a stipulated time limit.

For petitioner : Mr.A.Natarajan, SC for
Mrs.A.Madhumathi

For respondent : Mr.A.K.Manoj Kumar

O R D E R

The petitioner has come up with the present writ petition for a mandamus, directing the respondent to reissue passport to her.

2.The case of the petitioner is that she was involved in a criminal case, due to which, she was arrested and remanded to judicial custody. Subsequently, she was released on bail, on condition to surrender her passport. Accordingly, she surrendered her passport bearing No.Z1740519 before the trial Court. Thereafter, as per the order of the trial court, she received back her passport. At that time, she noticed that the pages found in her passport were exhausted. Hence, she submitted an application on 06.08.2013 requesting to reissue the same. According to the petitioner, the said application was filled up by her staff and sent to the respondent through on-line. On 02.09.2013, she received a letter from the respondent, whereby,

she was called upon to furnish explanation as to why she suppressed the material information about the pendency of two criminal cases against her. Immediately, she sent a reply to the respondent on 06.09.2013, stating that such omission was not intentional, but only due to oversight, on the part of her staff. However, the respondent issued a show cause notice dated 30.03.2016 intimating that the file pertaining to the petitioner, seeking reissuance of passport has been closed due to non-receipt of the explanation from the petitioner about the adverse remarks stated in the police verification report, to which, the petitioner submitted her reply on 23.05.2016. Despite the same, no order has been passed, till date. Hence, this writ petition.

3.The learned Senior Counsel for the petitioner submitted that on receipt of the letter dated 02.09.2013 from the respondent, the petitioner has duly sent her explanation, with regard to suppression of the criminal cases pending against her. However, the respondent issued the notice dated 30.03.2016 intimating about the closure of the petitioner's file seeking reissue of passport, for want of explanation with regard to the alleged suppression of information. The learned Senior Counsel further submitted that pendency of the criminal cases shall not be a bar for issuance of passport in terms of the notification dated 25.08.1993 issued by the Ministry of External Affairs, New Delhi. The learned Senior Counsel also submitted that in identical circumstances, vide order dated 12.10.2017 in WP(MD) No.16383/2017, this Court, following the earlier order of this Court in the case of N.Chandrababu Vs. The Sub Inspector of Police in W.P.(MD)No.7056 of 2017 dated 21.04.2017, directed the first respondent therein to consider the request of the petitioner therein and pass appropriate order, within a time frame. Therefore, the learned counsel sought a similar order in this writ petition as well.

4.Per contra, the learned Standing Counsel for the respondent submitted that the petitioner has not disclosed necessary details about the pendency of the criminal cases registered against her and hence, her file seeking reissue of passport was closed. However, the learned Standing Counsel fairly admitted the issuance of the notification dated 25.08.1993 by the Ministry of External Affairs, New Delhi, to the effect that pendency of the criminal cases cannot be cited as a bar to prevent a person to travel abroad.

5.This Court heard the submissions made by the learned counsel on either side and perused the materials placed before it, particularly, the earlier order passed by this Court in N.Chandrababu Vs. The Sub Inspector of Police in W.P.(MD)No.7056 of 2017, wherein, it has been 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."

The above extract would make it clear 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 from issuing passport to the petitioner therein.

6.It is the specific case of the petitioner herein that she has duly sent her explanation to the communication dated 02.09.2013 stating that the non-disclosure of the criminal cases pending against her was not an intentional one, but only due to oversight on the part of her staff, who filled up her on-line application. Further, according to the petitioner, in the criminal case pending against her, the Investigating Agency has filed charge sheet and the case is pending trial without any progress.

7.Such being the position, this Court is of the opinion that mere pendency of the criminal cases cannot be cited as a reason for denial of issuance of Passport to the petitioner, as the Ministry of External Affairs, New Delhi, already issued a notification bearing No.G.S.R.570(E) dated 25.08.1993, exempting the citizens of India against whom, criminal proceedings are pending, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the Passports Act 1967, subject to certain conditions and hence, the claim of the petitioner has to be considered by the respondent.

8.In view of the above and also taking note of the fact, after perusal of the records, that the passport issued to the petitioner was valid only upto 11.12.2017 and it got expired as

of now, this Court directs the petitioner to approach the respondent with a fresh application seeking reissue/renewal of passport, within a period of two weeks from the date of receipt of a copy of this order. On such approach, the respondent shall consider the same and pass appropriate orders, on merits and in accordance with law and also 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, within a period of four weeks thereafter.

9. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

The Regional Passport Office,
Rayala Towers
No.2 & 3, IV Floor
New No.158, Anna Salai,
Chennai - 600 002.

+1cc to Mr.A.K.Manojkumar, Advocate, S.R.No.60807
+1cc to Mr.C.P.Palanichamy, Advocate, S.R.No.60773

W.P.No.3585 of 2017

SS(CO)
GSP(04/10/2018)

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