

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.08.2018
CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.32549 of 2016

Sampath Arjunan

... Petitioner

Vs

The Regional Passport Officer,
Regional Passport Office,
First Floor, Corporation Commercial Complex
Avinashi Road
Coimbatore - 641 018.

... 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, the Regional Passport Officer, Regional Passport Office, First Floor, Corporation Commercial Complex, Coimbatore to reissue the passport immediately forthwith in the light of the petitioner's representation dated 20.08.2016.

For petitioner : Mr. D.Sampath kumar

For respondent : Mr.J.Madanagopal Rao

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 him, by considering his representation dated 20.08.2016.

2.The case of the petitioner is that his Passport bearing No.H4985857, dated 07.12.2009 originally, issued by the respondent had lost, due to inadvertence. Immediately, he preferred a complaint to the competent authority, who, after thorough enquiry, issued non- traceable certificate to the petitioner. Pursuant to the same, the petitioner applied for new passport on 10.06.2016, which was taken on file bearing No.CBI079428242916. Subsequently, he received a notice dated 26.07.2016, in which, the respondent sought explanation about the adverse remarks stated in the police verification report. The petitioner also sent his reply by way of representation dated 20.08.2016 to the respondent within the time stipulated in the said notice. However, till date, no order has been passed by the respondent. Hence, this writ petition.

3.The learned counsel for the petitioner submitted that the application submitted by the petitioner seeking passport, was not considered by the respondent, due to pendency of the criminal cases in Crime Nos.746/2006, 63/2016 and 414/2014, which, according to the learned counsel, have been foisted against the petitioner for political reasons. The learned 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 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.The learned counsel for the respondent, on instructions, submitted that the respondent referred the matter to the Commissioner of Police, Coimbatore to ascertain the present stage of the criminal cases pending against the petitioner, which is pending.

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. But, in the present case, both the parties have not enlightened this Court as to the present stage of the criminal cases pending against the petitioner. However, 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.

6.Hence, this writ petition is disposed of, directing the respondent to consider the application of the petitioner bearing Reference No.CBI079428242916 seeking passport, after completing enquiry 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(CS CS IX)

//True Copy//

Sub Assistant Registrar

arr/rk

To

The Regional Passport Officer,
Regional Passport Office,
First Floor, Corporation Commercial Complex
Avinashi Road
Coimbatore - 641 018.

+1cc to Mr.Arjunan Sampath, Advocate SR.NO.55893
+1cc to Mr.J.Madanagopal Rao, Advocate SR.NO.55894

sm:29.8.2018

W.P.No.32549 of 2016