

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.1565 of 2011

ORDER:

The petitioner seeks Writ of *Mandamus* declaring the action of the respondents in not releasing her renewed passport, though the renewal application was submitted by her on 10.01.2009 duly surrendering the previous passport No.A-5188570 and complying with all the mandatory requirements and completion of police enquiry, as being illegal and arbitrary and consequently direct the respondents herein to release the renewed passport to the petitioner.

2a) Petitioner's case, in brief, is that she obtained passport bearing No.A-5188570 from the respondents, which is valid from 31.03.1998 to 31.03.2008. After expiry of the said passport, the petitioner submitted an application for renewal of her passport, before the 2nd respondent, on 10.01.2009 by duly surrendering her earlier passport. Thereafter, the Police conducted enquiry and she was informed that her renewal application along with the old passport was dispatched to 1st respondent. Subsequently, the petitioner approached the office of 1st respondent with a request to issue renewed passport so as to go to abroad to attend her daughter-in-laws delivery and when she verified about the same in website, she noticed against the column of her application submitted '*furnish explanation for suppression of material information about the previous passport and surrender the same*'. Thereafter, the petitioner again submitted explanation on 25.11.2009 to the 1st respondent

informing about surrender of her previous passport and completion of Police enquiry, as there was no response from the 1st respondent on her previous application dated 10.01.2009, the petitioner constrained to submit several representations dated 21.12.2009 and 08.05.2010 respectively. While so, on 30.07.2010, the petitioner received a mail directing to furnish the information/documents within one month, failing which her application would be treated as closed:

“Furnish your explanation for suppression of material information about your previous passport and surrender the same. Please surrender your old passport vide No.A-1091731 Dt.12.7.1996.”

b) In reply to the said mail, the petitioner submitted her explanation on 24.08.2010 stating that the passport cited in the letter dt.30.07.2010 does not pertain to her, nor she obtained any passport in the year 1996, and she obtained passport only on 31.03.1998, after conducting due enquiry, and the said passport has been surrendered before the respondents along with her renewal application on 24.08.2010. In spite of the said representation, there is no reply from the respondents nor did the respondents release her renewed passport.

Hence, the present Writ Petition.

3) Respondent No.1 filed counter contending that the petitioner had applied for passport in the year 1996 *vide* file reference No.P/006807/1996, dated 14.05.1996, and she was issued a passport bearing No.A-1091731, dated 12.07.1996, which was valid upto 10.07.2006, and the passport was dispatched to H.No.17-203, Karnala

Street, Nellore *vide* Registered letter No.0063377, dated 17.07.1996. It was further contended that the petitioner herein, suppressing her correct mother name and address, again obtained the passport bearing No.A-5188570, dated 31.03.1998, which was valid up to 30.03.2008, with different address, by mentioning that she is 'House Wife' and suppressed the fact that she is a government servant and as such did not furnish any No Objection Certificate from the department concerned, though she is a government servant since 13.11.1985, and applied for renewal of passport in the year 2009, suppressing that she was issued a passport earlier in 1996. It is was further contended that they sought explanation from the petitioner on 18.01.2011 and as per the guidelines laid down by the Government of India, the petitioner has to surrender the passport obtained by her in the year 1996 or a certificate from Police that the said passport was lost and hence, the submission of petitioner that she never obtained a passport bearing No.A-1091731 cannot be accepted and prayed for dismissal of the Writ Petition.

4) Respondent No.2 also filed counter admitting that the petitioner submitted application for renewal of passport bearing No.A-5188570 on 09.01.2009 by duly surrendering the said passport and the said application was forwarded to 1st respondent for further action *etc.*, and prayed for dismissal of the Writ Petition.

5) Petitioner filed reply affidavit to the counter-affidavits filed by the respondents denying the averments made therein and submitted that the

said averments are made only for the purpose of stale defence without any basis or foundation and prayed to allow the Writ Petition.

6) Heard arguments of Smt. M.Suguna, learned counsel for petitioner and learned Standing Counsel for Central Government for respondents.

7) As can be seen from the respective submissions, petitioner's passport bearing No.A-5188570 was valid from 31.03.1998 to 30.03.2008 and therefore she submitted for issuance of a renewed passport and same was withheld by the respondent authorities on the ground that earlier she applied for passport in the year 1996 vide reference No.P/006807/1996 dated 14.05.1996 and she was issued passport bearing No.A-1091732 dated 12.07.1996 which was valid upto 11.07.2006. Suppressing the said material fact, the petitioner obtained second passport bearing No.A-5188570 in the year 1998. Therefore, the respondent authorities directed her to surrender the passport issued to her in the year 1996 and explain about the suppression of information regarding her occupation while applying for passport in the year 1998. The petitioner in her reply-affidavit denied having applied for passport in the year 1996 and obtaining passport bearing No.A-1091731.

8) It is pertinent to mention here that this Court directed the respondents to produce the concerned record and on 17.09.2018, the respondents produced the record and the petitioner was present in the Court and from out of the file produced by the learned counsel for respondents, Photostat copy of the application relating to passport No.A-1091731 dated 14.05.1996 which was purportedly submitted by the

petitioner was confronted to her and enquired as to whether the original of the said application was made by her in 1996 seeking passport. On perusal of the photo copy of the application, the petitioner stated that though the application contains the name of the applicant as Yethirajam Vijaya Lakshmi however, she did not apply for passport in the year 1996 and no passport bearing No.A-1091731 was issued to her. She also denied the signature as well as photo appearing on the Photostat application belongs to her. Thus, as stated supra, petitioner staunchly denied to have applied for passport in the year 1996.

9) Be that it may, Section 10 of Passports Act, 1967 (for short “the Act”) gives power to passport authority to impound and reject the passport and travel document. Section 10(3) of the said Act is germane for our consideration.

“Section 10: Variation, impounding and revocation of passports and travel documents.—

(1) xx xx

(2) xx xx

(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document,—

(a) If the passport authority is satisfied that the holder of the passport or travel document is in wrongful possession thereof;

(b) If the passport or travel document was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the passport or travel document or any other person on his behalf.

Provided that if the holder of such passport obtains another passport, the passport authority shall also impound or cause to be impounded or revoke such other passport.

(c) xx xx

(d) xx xx

(e) xx xx

(f) xx xx

(g) xx xx

(h) xx xx

10) It is to be noted that among other orders, the order under sub-Section (3) of Section 10 is an appealable under Section 11 of the Act. Having regard to the nature of allegations and counter allegations in this case and as an alternative and efficacious remedy is provided to the petitioner in the Act, I am of the considered view that petitioner can avail such remedy.

11) In the result, this Writ Petition is disposed of directing the respondents to pass an order in terms of Section 10(3) of the Act succinctly narrating the grounds for withholding petitioner's passport bearing No. A-5188570 without renewing the same and communicate to the petitioner within six (6) weeks from the date of this order, in which case, petitioner shall be entitled to pursue her remedy of appeal under the Act before the concerned appellate authority. No costs.

As a sequel, miscellaneous application pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 27.12.2018

Dsh / Murthy

Note: Registrar (Judicial) is directed to return the record to the concerned under proper acknowledgment.

(b/o)
scs