

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.19054 of 2015

ORDER:

There is no representation on behalf of the petitioner.

Heard the learned Assistant Solicitor General for the respondents.

The prayer sought in the writ petition is as under:

“... to issue a writ or order more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in not issuing pass port to the petitioner in spite of the petitioner application dated 05.06.2015 vide File No.HY3068577597515 is illegal, arbitrary and unjust and also against the provision of the pass port rules and consequential directions to the 2nd respondent to issue the pass port to the petitioner as per petitioner application dated 05.06.2015 vide File No.HY3068577597515 immediately without insisting guardianship certificate from the mother of the petitioner.”

The petitioner basically contended that in spite of submitting application dated 05.06.2015 vide File No.HY3068577597515 for issuance of passport to him, the respondent authorities are not issuing the same.

Learned Assistant Solicitor General appearing for the respondents filed a counter affidavit stating that as per the existing provisions for issuance of passport for a minor, consent from both the parents is required. Clause 4.1(q) in page No.60 of the Passport Manual, 2010, which deals with the cases pertaining to the children of divorced/separated parents, is as under:

“A Court decree granting divorce would normally award custody of the minor child/children to either parent. The PIA must ensure that the application for the minor's passport is entertained only from such parent who has been granted custody by Court. While doing so, the PIA must also satisfy himself that the period of limitation for appeal against such decree has expired before issuing the passport. PIA must also ensure that if the other parent has visitation or other rights on the child as per Court order the consent of the other parent is also furnished.”

Therefore, they sought dismissal of the writ petition.

However, during the course of hearing, the learned Assistant Solicitor General placed on record Annexure-C as per the amended regulations. The same is made part of the record. As per the declaration mentioned in Annexure-C, one of the spouses can file an application seeking passport of the minor thereby, giving a go-by to the earlier procedure of both the parents should give their consent. In that view of the matter, this Court is of the opinion that the application submitted by the petitioner vide File No.HY3068577597515 can be considered and appropriate orders may be passed as per law, within a period of eight weeks from the date of receipt of a copy of the order.

With the above said observation, the writ petition is disposed of. No costs.

Miscellaneous petitions, if any, shall also stand disposed of.

Date: 04.12.2018.
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P. KESHA RAO, J

