

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 20866 of 2018
and
W.M.P. No. 24502 of 2018

B.Vineed

... Petitioner

Vs.

1. The Union of India,
Ministry of Home Affairs,
Department of Personnel and Administrative Reforms,
New Delhi.

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Second Respondent to cancel the Word mentioned in the Passport File No.CB1070525336717 as Emigration Check is required and issue a fresh Passport by mentioning as Emigration is not required so as to enable the Petitioner to travel abroad peacefully.

For Petitioner : Mr. N. Umapathi

For Respondents : Mr. G. Baskaran
Central Government Standing Counsel

O R D E R

This Writ Petition has been filed for a direction to the Second Respondent to cancel the endorsement of 'Emigration Check Required (ECR)' in the passport of the Petitioner (File No. CB1070525336717) and issue a fresh passport with endorsement of 'Emigration Check Not Required (ECNR)' so as to enable the Petitioner to travel abroad without the requirement of Emigration Check from the concerned authority.

2. This Court during the earlier hearing on 24.09.2019 had passed the following self-explanatory order :-

"According to the Learned Counsel for the Petitioner, the First Respondent, viz., the Ministry of Home Affairs, by letter dated 28.06.1978, recognized the courses offered by the Jamia Urdu, Aligarh for the purposes of recruitment under the Central Government, but the Second Respondent has not recognized the said course for the purpose of granting ECNR endorsement for issue of passport.

2. Counter Affidavit has been filed by the Second Respondent stating that the said course is not recognized for the purpose of ECNR endorsement in passport and the eligibility criteria for the same has been separately prescribed. Since it has also been mentioned that persons who have passed Class X and above from recognized University or Board are entitled to ECNR endorsement in passport, the Second Respondent shall examine whether the said course is equivalent to Class X so as to be included for ECNR endorsement in the light of its aforesaid recognition by the Ministry of Home Affairs and submit a report in that regard.

3. The First Respondent shall file Counter Affidavit explaining as to whether the aforesaid letter dated 28.06.1978 issued is still in force and that course continues to be recognized for employment purposes.

Post the matter on 21.10.2019. "

In furtherance to the aforesaid order passed by this Court, the Second Respondent has filed an additional counter affidavit dated 21.10.2019 in which it is stated as follows:-

"I humbly submit that after considering the letter dated 13.04.2015 written by General Secretary, Council of Boards of School Education in India on genuineness and equivalence to Jamia Urdu, Aligarh, Uttar Pradesh (Copy of letter attached - Annex 1) and decision of Ministry of Home Affairs/Department of Personnel and Administrative reforms vide the Office Memorandum No.14021/2/78 Bett (D) dated 28.06.1978, this office is ready to provide Emigration Check Not Required (ECNR) facility to the Petitioner.

I humbly submit that even though there is no explicit approval for Emigration Check Not Required (ECNR) recognized course conducted by Jamia Urdu, Aligarh, Uttar Pradesh, this office has inferred and relied on the letter of Council of Boards of School Education in India. So, the Petitioner's fresh application for Emigration Check Not Required (ECNR) will positively be considered by Second Respondent."

3. In view of the aforesaid submissions made by the Respondents, necessary action shall be taken by the Second Respondent for issuing passport to the Petitioner with ECNR endorsement and report of the compliance in that regard shall be filed before the Registrar (Judicial) of this Court by 31.12.2019.

4. The Writ Petition is disposed on the aforesaid terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

arb/maya

To

1. The Ministry of Home Affairs,
Department of Personnel and Administrative Reforms,
New Delhi.

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

+1cc to Mr.G.Baskaran , Advocate SR.No. 87535

+1cc to Mr.N.Umapathi , Advocate SR.No. 88045 (06/01/2020)

W.P. No. 20866 of 2018
and
W.M.P. No. 24502 of 2018

A.SK(26/12/2019)