

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

CORAM

THE HON'BLE MR.JUSTICE A.D. JAGADISH CHANDIRA

W.P.No.10744 of 2019
& WMP.No.11216 of 2019

Rama Krishna Reddy Gorrepati

... Petitioner

Vs

1. The Regional Passport Officer,
Regional passport Office-Chennai
Royala Towers No.2 and 3, IV Floor
Old No.785, New No.158,
Anna Salai, Chennai.-600 002.

2. The Inspector of Police,
Central Bureau of Investigation
Bank Security & Frauds Cell
No.36, Bellary Road, Ganga Nagar,
Bangalore - 560 032.

... Respondents

This Writ petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings in File No.MAS079104985716 in Letter Ref.No.SCN/308023717/2019 dated 02.01.2019 of the 1st respondent and quash the same and consequently direct the 1st respondent to return the petitioner's passport bearing No.Z3506911 issued on 03.02.2016.

For Petitioner : Mr.Murali Kumar for
M/S.Mcgan Law Firm

For R-2 : Mr.K.Srinivasan, Spl.PP for CBI

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O R D E R

This writ petition has been filed seeking for issuance of writ of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings in File No.MAS079104985716 in Letter Ref.No.SCN/308023717/2019 dated 02.01.2019 of the 1st respondent and quash the same and consequently direct the 1st respondent to return the petitioner's Passport bearing No.Z3506911 issued on 03.02.2016.

2. The petitioner is a Managing Director of a Public Limited Company and Director in various Companies. The 2nd respondent has filed charge sheet against the petitioner in C.C.No.19 of 2016 on the file of the XI Additional Special Judge for CBI Cases, Chennai for the offences under Section 120-B r/w 420 of IPC and Sections 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988. The petitioner had submitted that the 1st respondent, without any prior show cause notice or due intimation, had issued an order dated 25.11.2016 impounding the petitioner's Passport issued on 03.02.2016 by invoking Section 10 (3) (e) of the Passports Act and the decision of the 1st respondent was unilateral and the same was passed without affording any opportunity to the petitioner in sheer violation to the Principles of Natural Justice. Earlier, the petitioner had filed a writ petition in W.P.No.10238 of 2017 before this Court, seeking to quash the said order dated 25.11.2016 of the 1st respondent and this Court by order dated 06.09.2017, disposed of the same with the following observation:-

"6. Therefore, it is suffice to direct the writ petitioners herein to appear before the first respondent within ten days from this day with their passports and surrender the same to the first respondent along with their explanations whatsoever to the show cause notice dated 04.11.2016. On receipt of the explanation to the show cause notice, the first respondent shall consider the explanation and pass orders in accordance with law within thirty days from such surrender and receipt of the explanation".

3. Thereafter, the petitioner could not submit his explanation to the 1st respondent within the stipulated time fixed by this Court and thereby, he filed W.M.P.No.32538 of 2018 in W.P.No.10238 of 2017, seeking extension of time to comply with the directions and this Court extended the time to comply with the earlier directions. Thereafter, the petitioner gave an explanation dated 29.11.2019, seeking for issuance of the Show Cause Notice and to submit a detailed explanation after perusing the Show Cause Notice. However, copy of the Show Cause Notice was not furnished, even after his specific request and thereby, on 21.12.2018, the petitioner appeared before the 1st respondent and surrendered his Passport and gave his oral explanation, whereas, the 1st respondent, in utter violation of the order dated 06.06.2017 of this Court passed is the said writ petition, issued the impugned proceedings dated 02.01.2019, stating that he had received a letter from the 2nd respondent on 22.07.2015, intimating that charge sheet has been filed against the petitioner before the CBI Court in C.C.No.19 of 2016 and thereby, he has to approach the CBI Court and obtain necessary

permission for getting back his Passport. The petitioner had further submitted that Notification in G.S.R.No.570(E) issued by the Ministry of External Affairs, Union of India, only relates to the cases where fresh issuance of Passport is sought for by persons, who are involved in criminal cases which are charge sheeted before the criminal Court of law and the cases relating to traveling abroad pending criminal proceedings before the Court of law and that it does not empowers the 1st respondent to withhold the Passport for want of an order from the concerned criminal Court and to return it to the custody of the Passport holders and thereby sought for granting of the impugned proceedings.

4. The learned counsel for the petitioner would submit that the notification issued by the Ministry of External Affairs, Union of India, only relates to the case where fresh issuance of Passport is sought for by persons, who are involved in criminal cases which are charge sheeted and pending before the criminal Court of law and that it does not empowers the 1st respondent withhold the Passport for want of an order from the concerned criminal Court and he would submit that thereby, the impugned order has to be set aside and direction has to be issued to the 1st respondent to return the petitioner's Passport.

5. The learned Special Public Prosecutor for CBI appearing for R-2 would submit that the Calender Case is of the year 2016 and that there are totally five accused in this case and it is pending at the stage of framing of charges and that the petition for discharge filed by the petitioner is also pending. He would further submit that perusal of the impugned order shows that the subject matter is concerned with issuance of Passport facilities to the petitioner and that in view of the Notification in G.S.R.No.570(E), the petitioner has to approach the concerned Trial Court which has now taken into cognizance of the matter.

6. Heard the learned counsel for the petitioner as well as the learned Special Public Prosecutor for CBI Cases for R-2. I have gone through the impugned order passed by the 1st respondent. The contents of the said order is extracted hereunder:-

"This is regarding the reissue application submitted by you in this office with file number MAS079104985716, dated 02.02.2016.

1. We have received a letter from CBI Bank Securities & Frauds Cell, Bangalore stating that "the Criminal case vide RC 4(E)/2015 on 22.07.2015 registered against you and charge sheet has been filed before the Court of XI Additional Special Judge for CBI Cases, Chennai vide CC.No.19 of

2016".

2. The Passport No.Z3506911 dated 03.02.2016 surrendered by you has been kept in this office safe custody.

3. In the view of above, as the case is charge sheeted and pending before the Court of XI Additional Special Judge for CBI Cases, Chennai vide CC.No.19 of 2016, in terms of instructions contained in G.S.R.No.570(E), you are advised to obtain orders from the Court concerned permitting you to depart from India in order to enable this office to restore the Passport facilities."

7. The reading of the above said order discloses that the petitioner had applied for re-issuance of the Passport and that the first respondent had advised the petitioner to obtain orders from the Court concerned, permitting him to depart India in order to enable him to restore the Passport facilities. The stage of the case is that cognizance has been taken and the case is pending on the file of the Trial Court at the stage of framing of charges.

8. In view of the above, this Court is of the considered opinion that it would be appropriate for the concerned Trial Court to decide the issue regarding return of Passport and permission to travel abroad. Hence, this writ petition is dismissed granting liberty to the petitioner to approach the concerned Court seeking relief for return Passport and permission to travel abroad. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Passport Officer,
Regional passport Office-Chennai
Royala Towers No.2 and 3, IV Floor Old No.785, New No.158,
Anna Salai, Chennai.
2. The Inspector of Police, Central Bureau of Investigation
Bank Security & Frauds Cell No.36, Bellary Road, Ganga Nagar,
Bangalore - 560 032.

3. The Special Public Prosecutor for CBI,
High Court of Madras.

+1cc to Mr. Mcgan Law Firm, Advocate, S.R.No. 36123

+1cc to Mr. S.V.Jayakumar, Advocate, S.R.No. 36038

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& WMP.No.11216 of 2019

NRL (CO)
GN (08/05/2019)



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