

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM

THE HON'BLE MR. JUSTICE K. RAVICHANDRABAABU

W.P. No.11731 OF 2019
and WMP No.11949 of 2019

Mrs.Kumari

... Petitioner

Vs.

1. Union of India,
Rep by Secretary to Govt. of India,
Ministry of External Affairs,
New Delhi.
2. Foreigners Regional Registration Office,
Bureau of Immigration,
Shastri Bhavan Annexure,
No.26, Haddows Road, Nungambakkam,
Chennai - 600 006
3. The Immigration Officer,
Bureau of Immigration,
Shastri Bhavan Annexure,
No.26, Haddows Road, Nungambakkam,
Chennai - 600 006

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus to call for the records of the Third Respondent pertaining to the proceeding dated 10.04.2019 passed in F-14/FRRO/CH/2019-2354 and quash the same and further direct the Third Respondent to issue Multiple Entry Visa to the petitioner.

For Petitioner : Mr.Janardhanan for
Mr.J.Dhanasekar

For Respondents : Ms.Sunitha Kumari
SPC

ORDER

Ms.Sunitha Kumari, learned counsel, takes notice for the

respondents and by consent of both sides, the main writ petition is taken up for final disposal.

2. The petitioner is aggrieved against the Communication of the third respondent dated 10.04.2019 and consequently, seeks for a direction to issue Multiple Entry Visa to the petitioner.

3. The very same petitioner approached this Court and filed a Writ Petition in WP No.10484 of 2019 and sought for a Mandamus directing the very same second respondent herein as the second respondent therein to dispose of her application submitted for converting her Tourist Visa to Multiple Entry Visa.

4. After hearing both sides, the said writ petition was disposed of on 09.04.2019 by directing the petitioner to approach the Immigration Officer/third respondent therein on 10.04.2019 and produce all the documents, as required by the said Official with further direction to the Immigration Officer to pass appropriate orders on merits and in accordance with law, on production of those documents.

5. It is now stated before this Court that though the petitioner approached before the third respondent on 10.04.2019, the third respondent has only issued the present impugned Communication without disposing the application, filed by the petitioner, for converting the Visa.

6. The learned counsel for the petitioner submitted that as the Tourist Visa, given to the petitioner, is going to expire on 19.04.2019, pending consideration of the application, filed by the petitioner, she may be deported at any time after 19.04.2019. Therefore, the petitioner has approached this Court and filed the present writ petition, seeking to quash the impugned Communication dated 10.04.2019.

7. The learned counsel appearing for the respondents, on the other hand, contended that unless the petitioner produces the necessary documents, sought for in the impugned Communication, the third respondent will not be in a position to consider the request of the petitioner for converting the Visa. Therefore, she submitted that it is for the petitioner to get those documents and produce the same before the third respondent, so as to enable him to consider the application for conversion of Visa. She further submitted, based on instructions given by the Official, who is personally present before this Court, that during the pendency of consideration of the application of the petitioner to convert the Visa, her over-stay beyond the period of Tourist Visa will not be considered as illegal and therefore, she submitted that the petitioner's apprehension is not well founded.

8. Heard both sides and perused the materials placed before this Court.

9. What is under challenge before this Court is only a Notice issued to the petitioner's husband viz., Mr.Niranjana Shanmuganathan, calling upon him to furnish the following documents to enable the third respondent to decide and process the Visa application, submitted by the petitioner herein:-

- (i) Your Birth Certificate
- (ii) Name, Nationality and Passport details of your parents, brother and sister.
- (iii) Your Marriage Certificate duly apostilled.

10. Therefore, it is evident that the impugned Proceedings is not a rejection Order and on the other hand, it is only a Notice, calling upon the petitioner's husband to produce certain documents. Needless to say that the petitioner, claiming to be the wife of the said person, to whom the said Notice was issued, has to produce these documents to enable the third respondent to consider and decide her application for conversion of Visa.

11. Now it is stated before this Court by the learned counsel for the petitioner that since it is Election time, it will take some more time for the petitioner and her husband to get those documents from the concerned Officials and therefore, atleast three months time may be granted to the petitioner to get those documents. He also submitted that till the application of the petitioner is considered and decided, her stay over and above the period of Tourist Visa shall also be protected.

12. It is claimed by the petitioner that she is a permanent citizen of Myanmar and married an Indian citizen viz., the said Niranjana Shanmuganathan. It is further submitted that she came to India on Tourist Visa with a valid period of three months and the said period expires on 19.04.2019. The petitioner seeks for conversion of the said Visa as Multiple Entry Visa.

13. For considering such request, the third respondent seeks for production of the above said three documents. Certainly, it is the bounden duty of the petitioner to produce those documents before the third respondent for considering such request. At the same time, as it is stated that the Tourist Visa, given to the petitioner, expires on 19.04.2019 and it would take some more time for the petitioner and her husband to get those documents from the Revenue and other Officials in view

of the ensuing Election, this Court is of the view that in the interest of both parties will be protected by passing the following Order in this Writ Petition:-

14. Accordingly, this Writ Petition is disposed of with the following direction:-

(a) The petitioner and her husband shall produce the documents, sought for by the third respondent, in his impugned Communication dated 10.04.2019, on or before 17.06.2019;

(b) As it is stated by the learned counsel for the respondents that pending consideration of the petitioner's application for conversion of the Visa, the petitioner's over-stay will not be considered as illegal, the respondents are directed not to take any coercive steps against the petitioner till the order is passed by the third respondent on her application, seeking for conversion of Visa;

(c) On production of those documents on or before 17.06.2019 by the petitioner and her husband, the third respondent shall pass appropriate order on merits and in accordance with law within a period of two weeks thereafter.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

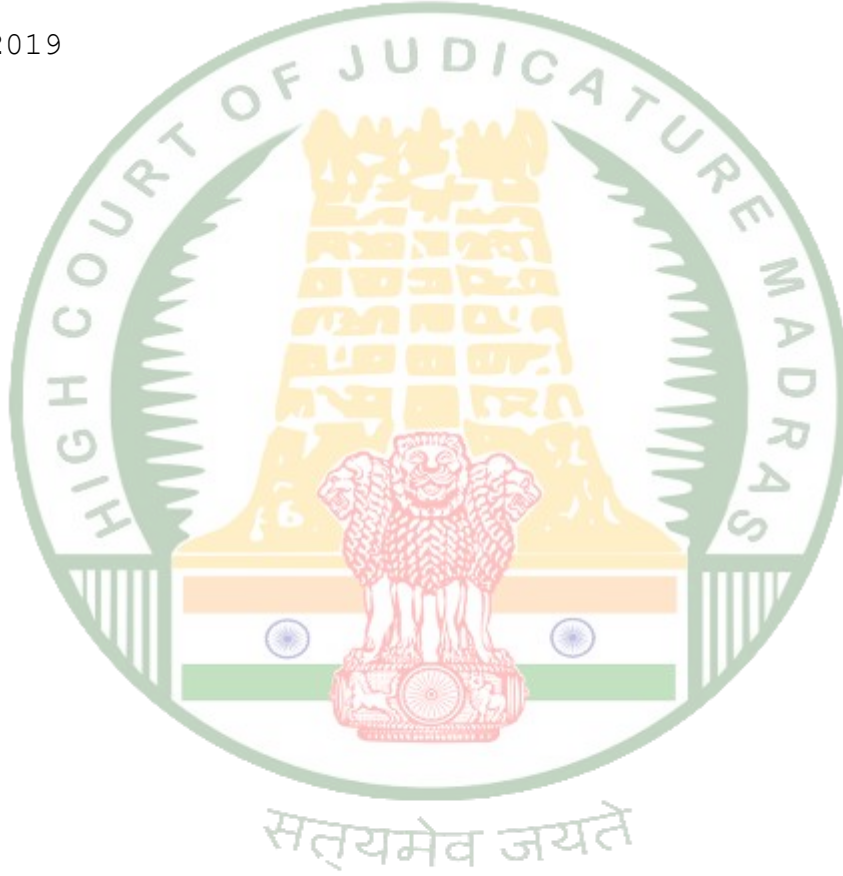
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+1cc to Ms.Sunitha Kumari, Advocate, S.R.No.37416
+1cc to Mr.J.Dhanasekar, Advocate, S.R.No.37414

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MG (CO)
CS/16/04/2019



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