



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

WEB COPY

W.P. (MD) No.10340 of 2019

Minor. Shumaylah Nayyab Hazirah
represented by her mother and Guardian
Shereine Bencita

... Petitioner

Vs

1.The Ministry of Home Affairs,
Represented by its Secretary,
NDCC-II Building,
Jaisingh Road,
new Delhi-110 001.

2.The Bureau of Immigration,
Foreigners Regional Registration Officer (FRRO)
No.26, Haddows Road,
Shastri Bavan Annexe,
Nungambakkam,
Chennai-6.

3.The Foreigner Registration Officer
Trichy Urban
Foreigner Registration Office,
Office of the Commissioner of Police,
Trichy.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the petitioner's Application ID No.140319P0256U dated 14.03.2019 regarding exit permit and consequently to direct the respondents to permit the petitioner to leave from India to Sweden forthwith.

For Petitioner : Mr.K.K.Senthil

For R1 and R2 : Mr.V.Kathirvelu
Assistant Solicitor General
assisted by
Mr.J.Alaguram Jothi

For R3 : Mr.K.Mu.Muthu
Additional Government Pleader

**ORDER**

Heard the learned counsel appearing for the writ petitioner, the learned Assistant Solicitor General appearing for the respondents 1 and 2 and the learned Additional Government Pleader for the third respondent.

2.This writ petition has been filed on behalf of the Minor.Shumaylah Nayyab Hazirah through her mother Mrs.Sherein Bencita. The petitioner's mother is a Swedish citizen. She got married to one Jan Johan Viktor Abom in the year 1991 and begot three children through him. She came down to India and had live in relationship with one Aroon. Through him, the petitioner herein namely Minor. Shumaylah Nayyab Hazirah was born on 06.07.2011 at Trichy. The petitioner's mother now wants to return to Sweden. There cannot be any difficulty for her because she is a Sweden Citizen. The petitioner's child has to join the mother in her return to Sweden. Therefore, she is in need of a exit permit. The second respondent is the authority competent to grant such a permit. Since the petitioner's application seeking grant of exit permit has not been considered, this writ petition came to be filed.

3.The learned Assistant Solicitor General appearing for the respondents 1 and 2 submitted that the petitioner should enclose two more documents along with her online application. They are the marriage certificate performed with the said Aroon and a no objection certificate from the said Aroon.

4.The said Aroon has given a supporting affidavit along with this writ petition. The petitioner's counsel now states that the petitioner would upload the no objection certificate of Aroon along with her application.

5.As regards issuance of marriage certificate, I am of the view that the petitioner may not be in a position to furnish the same. This is because the petitioner was having only a live in relationship with the said Aroon. Therefore, this Court dispenses with the requirement of having to furnish the marriage certificate.

6.The writ petitioner was born in India. Her mother is a Sweden Citizen. Her biological father is an Indian Citizen, he is in India. The petitioner's biological father has now indicated that the petitioner may go with her mother. The mother wants to go to Sweden. The child cannot be left in the lurch. Interests of justice require the second respondent to grant the exit permit sought for. It is also to be mentioned here that the petitioner's social father (whatever that means) is said to be Jan Johan Viktor Abom.

7.These are matters in which the interest of the child alone should rank paramount. The petitioner shall upload the following documents along with her application:



i) No Objection Certificate from Aroon, the biological father of the petitioner.

ii) The petitioner's mother shall also file an affidavit indicating the live in nature of her relationship with Aroon through which the petitioner herein was born. The second respondent shall accept the aforementioned documents and grant the exit permit.

8. The learned counsel for the petitioner now states that the petitioner's social father is no more and therefore, there is an acute urgency for the petitioner and her mother should be present positively in Sweden on 03.05.2019. The learned counsel for the petitioner states that the documents sought for by the respondents will be uploaded today (26.04.2019) itself.

9. Taking note of the extraordinary circumstances, the second respondent shall grant the exit permit sought for on or before 30.04.2019.

10. Accordingly, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar (W)

/ True Copy /

Sub Assistant Registrar (CS-III)

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To

1. The Secretary,
The Ministry of Home Affairs,
NDCC-II Building, Jaisingh Road, new Delhi-110 001.

2. The Bureau of Immigration,
Foreigners Regional Registration Officer (FRRO)
No.26, Haddows Road, Shastri Bavan Annexe,
Nungambakkam, Chennai-6.

3. The Foreigner Registration Officer
Trichy Urban,
Foreigner Registration Office,
Office of the Commissioner of Police, Trichy.

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-63026[F] dated 26/04/2019)
+2 CC to M/s.J.ALAGURAM JOTHI, Advocate (SR-7417[I] dated 26/04/2019)

W.P. (MD) No.10340 of 2019
26.04.2019