



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 13489 of 2019

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R.Senthilkumar

... Petitioner

Vs.

1. The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Regional Passport Office,
Thiruchirappalli.

2. The Inspector of Police,
Nachiyarkovil Police Station,
Thanjavur District.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to issue the passport to the petitioner by considering the application bearing No.T.R.1061143208318 pending on the file of the first respondent within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.V.kathirvelu, ASG
Asst.by Ms.S.Ragaventhare, CGC
Mr.P.Kannidevan, AGP for R2

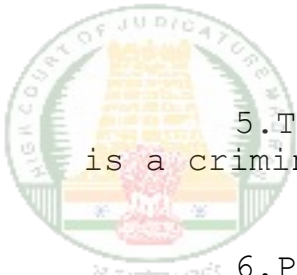
O R D E R

The prayer in the Writ petition is for a Writ of Mandamus, directing the respondents to issue the passport to the petitioner by considering his application bearing No.T.R.1061143208318 pending on the file of the first respondent within a time frame.

2. Heard Mr.A.Rahul, learned counsel appearing for the petitioner, Mr.V.Kathirvelu, learned Assistant Solicitor General appearing for the first respondent and Mr.P.Kannidevan, learned Additional Government Pleader appearing for the second respondent.

3. The petitioner applied for passport to the first respondent with application No.T.R.1061143208318.

4. On processing the same, the first respondent has given a show cause notice on 27.05.2019, directing that the petitioner shall appear in person along with the necessary documents within a period of 15 days failing which, the application shall be treated as closed.



5.The said notice was issued with the back ground that there is a criminal case pending against the petitioner at the FIR stage.

6.Pursuant to the said request, the petitioner claimed to have sent a reply on 12.06.2019, stating that in Crime No.126 of 2016 on the file of the second respondent, only an FIR is pending. Pendency of the FIR may not be the impediment for the petitioner to get a passport and therefore, his application can be considered on merits and to be decided.

7.At that stage, since no consideration has been shown, the present Writ petition has been filed.

8.On notice learned Assistant Solicitor General appeared before this Court and he has produced a communication dated 17.06.2019 issued by the first respondent office stating that since within the stipulated time, the petitioner has not responded to the show cause notice issued on 27.05.2019, the application of the petitioner and his file has been closed. However, the first respondent has stated that, if the petitioner wish to apply, by making a fresh application, seeking for passport, the same would be considered on merits.

9.The learned Assistant Solicitor General in this context would submit that, mere pendency of the FIR may not be the impediment for the first respondent to consider the application on merits and therefore, if the petitioner makes a fresh application immediately, that shall be considered on merits, within a shortest possible time, if it is otherwise in order.

10.However, Mr.P.Kannidevan, learned Additional Government Pleader appearing for the second respondent would submit that, in respect of the said criminal case, investigation is over, however, the charge sheet yet to be filed.

11.Be that as it may, as of now the fact remains that, there is no charge sheet pending against the petitioner. Therefore, as rightly pointed out by the learned Assistant Solicitor General appearing for the first respondent, the petitioner can seek indulgence of the first respondent by making a fresh application and in that case that can be considered on merits notwithstanding the fact that, the FIR is pending against the petitioner because mere pendency of the FIR may not be an impediment for the respondent to consider his application.



12. In that view of the matter, this Court is inclined to pass the following order by disposing this Writ petition:

The petitioner shall make a fresh application seeking passport to the first respondent office at the earliest and such application received by the first respondent office from the petitioner shall be considered, as there is no charge sheet pending against the petitioner as of now and such consideration shall be made within a time frame of four weeks from the date of receipt of such application, if all relevant documents produced in this regard and if any further assistance or clarification is required from the petitioner, a short notice can also be given to the petitioner and on receipt of such notice, the petitioner shall appear before the first respondent office and clear the doubts.

13. This order shall not be construed that despite the charge sheet is filed and pending, the application to be filed by the petitioner, shall be cleared by the respondent concerned because, as of now there is no charge sheet is pending and once the application is filed and before it is decided by the first respondent as directed by this Court within the stipulated time, if the charge sheet is filed, the same shall also be taken into account by the first respondent office and accordingly, final order shall be passed within the time frame.

14. With these observations and directions, this Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Regional Passport Office,
Thiruchirappalli.

2. The Inspector of Police,
Nachiyarkovil Police Station,
Thanjavur District.

+1CC TO MR.A.RAHUL, ADVOCATE, SR.70861

+1CC TO MR.S.RAGAVENTHRI, ADVOCATE, SR.70905

+1CC TO M/S.SPECIAL GOVERNMENT PLEADER, SR.71240



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