



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.22309 of 2019

WEB COPY

Jerish Xavier

... Petitioner

vs.

1.The Government of India
Ministry of External Affairs,
Regional Passport Office,
Madurai, Bharathi Ula Veethi
Race Course Road, Madurai-02.

2.The Inspector of Police,
Thoothukudi All Women Police Station,
Thoothukudi,
Thoothukudi District.

3.The Inspector of Police,
Authoor Police Station,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 1st respondent to return the petitioner's passport in passport No.Z5447038 to the petitioner forthwith and consequently to direct the respondents to permit the petitioner to go to abroad for his job by considering the petitioner's explanation dated 24.9.2019 within the time limit.

For Petitioner : Mr.A.Karthick

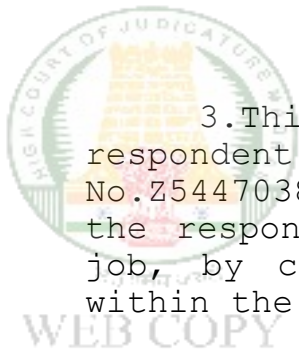
For Respondent : Mr.V.Kathirvelu

Assistant Solicitor General of India
assisted by Mrs.Ragaventhree for R-1
Mr.P.Kannithevan
Addl. Govt. Pleader for R-2 & R-3

O R D E R

Mr.V.Kathirvelu, learned Assistant Solicitor General of India, assisted by Mrs.Ragaventhree, takes notice on behalf of the first respondent. Mr.P.Kannithevan, learned Additional Government Pleader, takes notice on behalf of the second and third respondents.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



3.This writ petition has been filed to direct the first respondent to return the petitioner's passport in passport No.Z5447038 to the petitioner forthwith and consequently to direct the respondents to permit the petitioner to go abroad for his job, by considering the petitioner's explanation dated 24.9.2019 within the time limit.

4.The petitioner was issued with the passport bearing No.Z5447038. From the facts presented, it is noted that when the holders of passport visit certain countries which has visa restrictions, second police verification is done. During the time of such second police verification, it came to light that criminal proceedings are pending against him in Cr.No.21/2019 for the offences punishable under Section 417, 420 of I.P.C and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. However, without advertng to the facts, the passport was issued to the petitioner. That is why, the respondents directed the petitioner to surrender the passport, which, the petitioner promptly complied with and surrendered his passport on 30.08.2019. The first respondent issued a notice to the petitioner on 09.09.2019 and sought for explanation. The petitioner also duly submitted his explanation on 24.09.2019. Even after receipt of the same, the authorities have failed to consider his case. Hence, he has come to this Court by way of this writ petition.

5.The learned Assistant Solicitor General of India appearing for the first respondent would submit that since the factum of pendency of F.I.R was not disclosed by the petitioner, they have taken action. He would further submit that in view of notification of the Central Government in GSR No.570(E), Ministry of External Affairs, dated 25.08.1993 and also in view of the catena of decisions of this Court, that pendency of F.I.R will not be a bar for granting passport and they will take appropriate action for return of passport.

6.I have heard the submission of both sides.

7. Admittedly, the petitioner was issued with the passport bearing No.Z5447038. From the facts presented, it is noted that when the holders of passport visit certain countries which has visa restrictions, second police verification is done. During the time of such second police verification, it came to light that criminal proceedings are pending against him in Cr.No.21/2019 for the offences punishable under Section 417, 420 of I.P.C and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. However, without advertng to the facts, the passport was issued to the petitioner. On coming to know about the pending criminal proceedings, the respondents directed the petitioner to surrender his passport.



8. Now, the learned Assistant Solicitor General of India would submit that pendency of the First Information Report will not be a bar for granting passport and that they will take appropriate action for return of the passport.

9. Considering the above facts, this Court is inclined to grant the relief sought for by the petitioner. Hence, the respondents are directed to return the passport bearing No.Z5447038 to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. In the event of any criminal proceedings continued, the respondents are entitled to act as per the GSR No.570 (E), Ministry of External Affairs, dated 25.08.1993.

10. Accordingly, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar (CS)

vs/SML

To:

1. The Government of India
Ministry of External Affairs,
Regional Passport Office,
Madurai, Bharathi Ula Veethi
Race Course Road, Madurai-02.
 2. The Inspector of Police,
Thoothukudi All Women Police Station,
Thoothukudi, Thoothukudi District.
 3. The Inspector of Police,
Authoor Police Station,
Thoothukudi District.
- +1 CC to M/s.M.S.JEYAKARTHIK, Advocate SR-93819.
+1 CC to SPL GP SR-94225

Order made in
W.P. (MD) No.22309 of 2019
Dated:
22.10.2019

CS (04.11.2019) 3P 6C