



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD) No.23192 of 2019

WEB COPY
Prem Sankar

.. Petitioner

Vs.

1.The Regional Passport Officer,
Madurai, Race Course Road,
Madurai.

2.The Superintendent of Police,
Kanyakumari District.

3.The Inspector of Police,
Thucklai Police Station,
Thucklai, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the 3rd respondent to consider the petitioner's representation dated 10.08.2019 and to issue clearance certificate or to send the clearance certificate to the 1st respondent and further direct the 1st respondent to issue passport to the petitioner.

For Petitioner : Mr.M.R.Sreenivasan

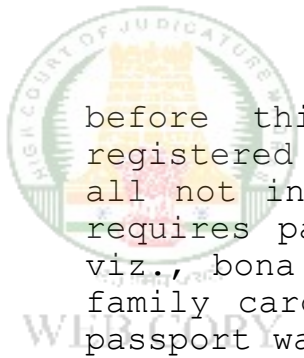
For R1 : Mr.V.Kathirvelu
Assistant Solicitor General
assisted by Mr.M.Kannan, CGSC

For R2 & R3 : Mr.Rajarajan
Government Advocate

ORDER

Mr.V.Kathirvelu, learned Assistant Solicitor General of India, takes notice on behalf of the first respondent and Mr.M.Rajarajan, learned Government Advocate takes notice on behalf of the second respondent. By consent, the writ petition is taken up for final disposal at the stage of admission itself.

2.The petitioner has made an application for issuance of passport in MD2062183422719 ARN : 19-1005382889 on 07.06.2019. But, passport was not granted in view of pendency of an FIR registered in Crime No.229/2019 dated 15.04.2019 against the petitioner. Therefore, he made a representation to the Inspector of Police/third respondent herein to issue a clearance certificate in favour of the petitioner. Since the same was not processed, the petitioner is



before this Court. According to him, a petty case has been registered by the police in respect of election, in which, he has at all not involved. The petitioner is a Marine student, and that he requires passport. He has also produced all the relevant documents viz., bona fide certificate from the College, Aadhar identity card, family card to the respondents. However, his request for grant of passport was not considered so far.

3. When the matter is taken up for admission, Mr.M.Rajarajan, learned Government Advocate appearing for the second respondent, on instructions, would submit that final report has been filed and the Magistrate concerned has taken cognizance of the offence in STC.No.693/2019. Therefore, the third respondent is not in a position to issue no objection certificate.

4. Mr.V.Kathirvelu, learned Assistant Solicitor General of India, who entered appearance on behalf of the first respondent, would submit that as per G.S.R.570(E) of the Notification dated 25.11.1993, issued by the Ministry of External Affairs, the petitioner has to approach the concerned Magistrate Court for the purpose of processing passport. The relevant portion of the said Notification is extracted hereunder for easy reference.

"G.S.R.570(E) - In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No.G.S.R.298(E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal Court in India and who produce orders from the Court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

(a) the passport to be issued to every such citizen shall be issued-

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year;

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the



passport, the passport shall be issued for one year; or

(iv) If such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order

(b) any passport issued in terms of (a) (ii) and (a) (iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued."

5. In view of the same, the petitioner is directed to file appropriate application before the concerned Magistrate and on production of appropriate orders from the Magistrate, the first respondent is directed to process the petitioner's application in accordance with law, within a period of four weeks thereafter.

6. The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Regional Passport Officer,
Madurai,
Race Course Road,
Madurai.

2. The Superintendent of Police,
Kanyakumari District.



3.The Inspector of Police,
Thucklai Police Station,
Thucklai,
Kanyakumari District.

+1 CC to Mr.M.KANNAN, Advocate (SR-96312[F] dated 06/11/2019)

+1 CC to SPL GP (SR-96338[F] dated 06/11/2019)

+1 CC to Mr.M.R.SREENIVASAN, Advocate (SR-96374[F] dated 06/11/2019)

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VB(07.11.2019) 4P 7C