

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.44317 of 2016

and

W.M.P. Nos.38185 and 38186 of 2016

S. Abdul Rahman

... Petitioner

Vs

1. The Regional Passport Officer,
Regional Passport Office - Coimbatore,
1st Floor, Corporation Commerce Complex Opp.
Thandumariamman Koil,
Avinashi Road,
Coimbatore - 641 018.

2. Commissioner of Police,
Coimbatore City,
Coimbatore.

3. Inspector of Police,
D-3, Pothanur Police station,
Coimbatore.

.... Respondents

Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Certiorarified
Mandamus calling for the records in 3/5/2016 Passport
No.CB1068268590715 to quash as illegal and direct the 1st
respondent to issue the Passport to the petitioner.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.S. Meenakumaran,
CGSC for R1

Ms.K.Bhuvaneswari,
Additional Govt. Pleader
for R2 and R3.

ORDER

This writ petition has been filed challenging the order dated 03.05.2016 passed by the first respondent closing the file of the petitioner pertaining to his application for Passport.

2. It is the case of the petitioner that he applied for a Passport in Application No.CB1068268590715 with the first respondent, which was forwarded by the first respondent to the second respondent for verification. According to the petitioner, the second respondent submitted an adverse report against the petitioner stating that the petitioner belongs to a banned organization, viz., Student's Islamic Movement of India.

3. It is the case of the petitioner that he has no connection with the said banned organisation. According to the petitioner, based on the adverse report, given by the second respondent, the first respondent has rejected the application of the petitioner for a Passport by the impugned order dated 03.05.2016. Aggrieved by the same, this writ petition has been filed.

4. A counter affidavit has been filed by the first respondent, wherein they have stated that the petitioner was advised to furnish a clear police verification report within 15 days, otherwise his file will be closed vide their letter dated 11.04.2016. Hence, according to them, only due to non production of police report, they were unable to grant passport to the petitioner.

5. A counter affidavit has also been filed by the third respondent, wherein they have stated in paragraph 5 that the criminal case as against the petitioner in CC No.424 of 2003 on the file of the Judicial Magistrate - V, Coimbatore has ended in acquittal on 03.08.2014. Though the said criminal case ended in acquittal, clearance certificate was not issued to the petitioner only because he continued to be a member of the said banned organisation.

6. Mr.R.Sankarasubbu, learned counsel for the petitioner and Mr.S.Meenakumaran, learned CGSC for the 1st respondent and Ms.K.Bhuvaneswari, learned Additional Government Pleader for the respondents 2 and 3

Discussion :

7. It is not in dispute that the petitioner was prosecuted by the second and third respondents in Crime No.451 of 2001 on the file of the B12, Ukkadam Police Station under Section 10 of

Unlawful Activities (Prevention) Act, 1967 on the alleged ground that the petitioner is a member of Student's Islamic Movement of India, a banned organisation. It is also an admitted fact that the said case in C.C. No.424 of 2003 before the learned Judicial Magistrate -V, Coimbatore, ended in acquittal on 03.08.2004.

8. It is also submitted by the learned Additional Government Pleader for the second and third respondents that no appeal has been filed against the order dated 03.08.2004 passed in C.C. No.424 of 2003. Hence the order dated 03.08.2004 passed in favour of the petitioner in C.C. No.424 of 2003 has attained finality. The order dated 03.08.2004 passed in C.C. No.424 of 2003 has also been enclosed by the petitioner in his typed set of papers, which discloses that the petitioner has been acquitted from the alleged offence in Crime No. 451 of 2001.

9. The counter affidavit filed by the third respondent, also admits in paragraph 5 that the criminal case as against the petitioner in CC No.424 of 2003 on the file of the Judicial Magistrate - V, Coimbatore has ended in acquittal on 03.08.2014. Further, this Court by its earlier proceedings dated 27.01.2020 directed the learned Additional Government Pleader to produce proof to show that the petitioner is a member of the banned organisation viz., Student's Islamic Movement of India. Today, the learned Additional Government Pleader appearing for respondents submitted before this Court that there is no proof with regard to the same.

10. Without any material to prove that the petitioner belongs to a banned organisation, the petitioner was deprived of the Passport, which violates his fundamental right to travel. It also violates Article 21 of the Constitution of India.

11. For the foregoing reasons, the impugned order dated 03.05.2016, is hereby quashed and the writ petition is allowed. The petitioner is permitted to apply afresh for a Passport with the first respondent and the first respondent shall issue the Passport to the petitioner, subject to the fulfilment of the requirements under the Passport Act and its Rules. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Regional Passport Officer,
Regional Passport Office - Coimbatore,
1st Floor, Corporation Commerce Complex Opp.
Thandumariamman Koil,
Avinashi Road,
Coimbatore - 641 018.

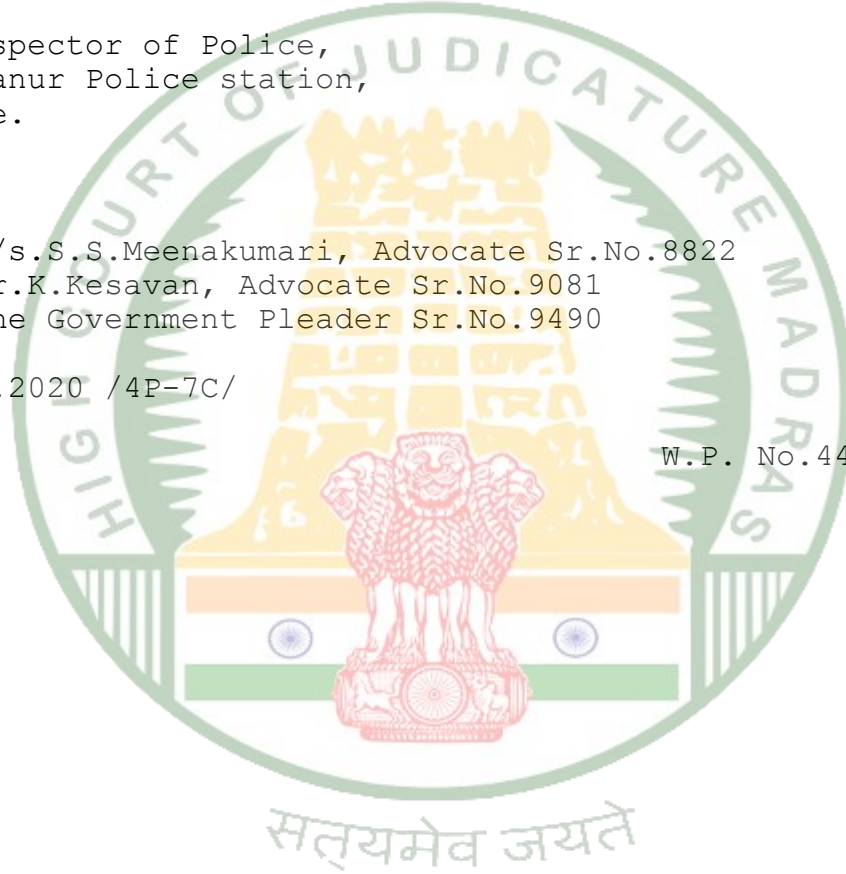
2. The Commissioner of Police,
Coimbatore City,
Coimbatore.

3. The Inspector of Police,
D-3, Pothanur Police station,
Coimbatore.

+1cc to M/s.S.S.Meenakumari, Advocate Sr.No.8822
+1cc to Mr.K.Kesavan, Advocate Sr.No.9081
+1cc to The Government Pleader Sr.No.9490

AKM/10.03.2020 /4P-7C/

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