

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2020

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

W.P. No. 32869 of 2019
and
W.M.P. No. 33924 of 2019

1. M.Ashok Kumar
Rep. by his Power of Attorney Agent
Mr.Rajagopal

2. Rajagopal ... Petitioners

-vs-

1. The Joint Secretary,
Ministry of Home Affairs,
North Block, New Delhi.

2. The Chief Immigration Officer,
No.26, Shastri Bhavan Annex,
Haddows Road, Nungambakkam,
Chennai 600 034.

3. The Chief Immigration Officer,
Bureau of Immigration,
Tiruchy International Airport,
Tiruchy - 7.

4. The Ministry of External Affairs,
Government of India,
No.68, College Road, EVK Sampath Maaligai,
7th Floor, Nungambakkam, Chennai 600 006.

5. The Ministry of External Affairs,
Government of India,
South Block, E-Block,
Central Secretariat, New Delhi 110 001. ... Respondents

(R4 and R5 impleaded as per order dated 24.01.2020 made in WMP
No.84 of 2020 in W.P. No.32869 of 2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioner dated 04.04.2019 and to direct the 3rd respondent to remove the petitioner name under para 6 of the Foreigners order 1948 Passport No.A33267011.

For Petitioners: Mr.P.Chandrasekar

For Respondents: Mr.K.Srinivasamurthy
Senior Panel Central Government
Standing Counsel (For R1 to R3)

O R D E R

The writ petition has been filed in the nature of writ of Mandamus, seeking a direction to the 1st respondent namely the Joint Secretary, Ministry of Home Affairs, North Block, New Delhi, to consider the representation of the petitioner dated 04.04.2019 and further direct the 3rd respondent namely the Chief Immigration Officer, Bureau of Immigration, Tiruchy International Airport, Tiruchy, to remove the petitioner's name under para 6 of the Foreigners Order 1948, with respect to passport No.A33267011.

2. The petitioner has been leading a very interesting life. Quite apart from marital issues with his wife, he also, being a Malaysian citizen at some point of time had projected himself as the "Advisory to the Prime Minister of Malaysia". It was however subsequently found that not all the documents produced by the petitioner were genuine. To refute that contention and to remove that suspicion, the learned counsel for the petitioner has produced several letters/communications in which, it had been stated that the petitioner had at some point of time, actually served as a Member of Advisory/Consultation Body to the office of the Prime Minister of Malaysia. These are all facts that this court cannot either enter upon to discuss or even determine. These are facts which are to the exclusive knowledge of the authorities in Malaysia. However, the fact remains that the petitioner's marital discord with his wife Mrs. Srividhya has flared to such an extent that she had sent an E-mail, complaining about harassment by him and therefore sought an order of restraint to prevent him from entering this Country.

3. In this connection, the petitioner had given a representation dated 04.04.2019, and this court has been called upon to issue a mandamus to direct the authority to consider and pass orders in the said representation. Mr.K.Srinivasammurthy, learned counsel, who took notice on behalf of the 5th and 6th respondents, who were impleaded pending the writ petition, stated that the said respondents namely the Ministry of External Affairs, New Delhi, can pass any orders only after obtaining further instructions from the authorities at Malaysia. He stated that the representation can never be addressed on the basis of the statements in the representation and it has to be forwarded to the authorities in Malaysia.

4. This court is also of the opinion that a Mandamus as sought for cannot be issued. As a matter of fact, the authorities to whom such representation had been given are not the proper authorities to pass effective orders. It is therefore stated by Mr.K.Srinivasamurthy, learned counsel, that the petitioner may well be advised to adopt either one of the two course namely to send a representation explaining all facts to the High Commissioner in Malaysia, who will get explanatory remarks and thereafter communicate with the Ministry of External Affairs, New Delhi or the petitioner may give such representation along with necessary documents to the 5th respondent namely the Ministry of External Affairs, Government of India, South Block, E Block, Central Secretariat, New Delhi - 110 001. The option is left to the petitioner to give the representation to whichever authority he deems fit.

5. It is made clear that merely giving a representation to an authority to whom the petitioner feels is the correct authority is not a guarantee that a proper remedy would be granted to the petitioner. At any rate, a Mandamus cannot be issued on the basis of the representation dated 04.04.2019.

6. With these observations, the present writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Chief Immigration Officer,
No.26, Shastribhavan Annex,
Haddows Road, Nungambakkam,
Chennai 600 034.
3. The Chief Immigration Officer,
Bureau of Immigration,
Trichy International Airport,
Trichy - 7.
4. The Ministry of External Affairs,
Government of India,
No.68, College Road, EVK Sampath Maaligai,
7th Floor, Numgambakkam, Chennai 600 006.
5. The Ministry of External Affairs,
Government of India,
South Block, E-Block,
Central Secretariat, New Delhi 110 001.

+3cc to Mr.P.Chandrasekar, Advocate sr.14035
+1cc to Mr.K.Srinivas, Advocate sr.14057

W.P. No. 32869 of 2019
and
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br(co)
nr 24/02/2020