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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.01.2020

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.33473 of 2019

Indra Kumar

.. Petitioner

..Vs..

1. Foreign Regional Registration Office,
Bureau of Immigration,
Haddows Road, Subha Road Avenue,
Shastri Bhavan - Nungambakkam,
Chennai - 600 021.

2. The Inspector of Police,
S 2, Airport Police Station,
Chennai - 600 027.

3. The Government of Tamil Nadu,
Rehabilitation Department,
Srilanka Refugee.

4. The Special Revenue Inspector,
Vazhavantha Kottai,
Tiruchirapalli.

.Respondents 1 to 4

5. The Deputy High Commission of Sri Lanka
No.56, Sterling Road, Nungambakkam,
Chennai - 600 034.

(R5 Deleted vide order dated 10.12.2019 made
in WMP No.35505 of 2019 in WP.No.33473 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 not to insist on the "No Objection
Certificate" from the 2nd respondent in the course of processing
the petitioner's Exit Visa Papers vide Appln No.120819J5180V on
12th August 2018.



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For Petitioner : Mr.AR.M.Arunachalam

For Respondents: Mrs.Sunitha kumari, (for R1)
Special Government Pleader
Mr.R.Govindasamy, (for R2 to R3)
Special Government Pleader

O R D E R

The petitioner Indra Kumar, S/o. Thangarasa, residing at No.20-1/57, Mangammal Salai, Renga Nagar, K.K.Nagar, Tiruchirapalli - 620 021 has filed the present writ petition in the nature of mandamus, directing the 1st respondent namely Foreign Regional Registration Office, Bureau of Immigration, Haddows Road, Subha Road Avenue, Shastri Bhavan-Nungambakkam, Chennai 600 006, not to insist on the "No Objection Certificate" from the 2nd respondent namely the Inspector of Police, S2 Airport Police Station, Chennai - 600 027 for processing the petitioner's Exit Visa Papers vide Appln No.120819J5180V, dated 12.08.2018.

2. In the affidavit filed in support of the said petition, it had been stated that the petitioner is a Srilankan Citizen born on 10.03.1990 at Jafna, Sri Lanka and brought up by his parents at Vanni District, Sri Lanka and his father was a Fisherman by profession. Unfortunately, his father died leaving behind the petitioner and his mother. Thereafter, the petitioner and his mother were compelled to leave Vanni District, Sri Lanka on account of the ongoing internal War in the year 1999 and had taken refuge at Dhaushkodi, Ramanathapuram District, Mandapam Camp, Tamil Nadu and has been living there since 1999 till 2006.

3. Thereafter, the petitioner and his mother were relocated to Vazhavandhan Kottai @ Tiruchirapalli, Tamil Nadu. The Special Revenue Inspector, Vazhavanthan Kottai has been impleaded as a 4th respondent. Thereafter, the Rehabilitation Department, Srilanka Refugee had been impleaded as a 3rd respondent. The 3rd respondent had issued an Identity Card on 22.03.2007. A Certificate had been issued by the 4th respondent on 07.08.2019 to confirm their residence. These Certificates enabled the petitioner to move across the State of Tamil Nadu. He had also obtained Family Ration Card on 01.10.2018. It is also stated that the petitioner did his Collegiate education at Srinivasa Polytechnic College, Pudukottai District in the year 2011.

4. It is the case of the respondents that the petitioner had fabricated the records in the name of Arockiaraj in the passport bearing number J7299077 and with that Indian Passport,



he had traveled from France and arrived at Chennai on 16.12.2012 and hence he was detained by the 1st and 2nd respondents. In this regard, an FIR has also been registered in FIR No.398 of 2012 by the 2nd respondent under Section 12 (1-A) (d) (b) of the Indian Passport Act. It was therefore stated that the petitioner cannot be granted any relief without obtaining No objection certificate from the 2nd respondent.

5. The learned Special Government Pleader who took notice on behalf of the 2nd respondent stated the 2nd respondent was directed to file a status report with respect to the investigation and also for consequential trial pursuant to FIR No.398 of 2012 . Pursuant to the investigation, final report has been taken on file in C.C.No.494 of 2017 by Judicial Magistrate, Alandhur. Trial was conducted and by a Judgment dated 17.07.2019, the petitioner had been acquitted of all charges. In this regard, a counter affidavit has also been filed by the 2nd respondent namely the Inspector of Police, S2 Airport Police Station, Chennai 600 027 wherein the relevant paragraph has been extracted below:

" 3. I respectfully submit that after completion of elaborate and detailed investigation the then Inspector of Police getting prior permission from the Commissioner of Police, Chennai City in Rc.No.Crime (1)/22/49408/2013 dated 26.07.2013 and filed charge sheet against the petitioner/accused before the Judicial Magistrate, Alandur and the same was taken on file by the said Court in C.C.No.494 of 2017 dated 23.05.2017. After conducting due trial, the Judicial Magistrate Court, Alandur by its Judgment dated 17.07.2019, the accused is not found guilty for the offence U/s. 12 (1-A) (b) of Passport Act and acquitted the petitioner/accused U/s. 248 (i) Cr.P.C."

6. A copy of the counter has also been perused by the learned counsel for the 1st respondent. The learned counsel for the 1st respondent had insisted that the papers regarding passport the petitioner cannot be processed in the absence of No objection certificate form the 2nd respondent. It is also not brought to the knowledge of the 1st respondent whether the petitioner had any other cases registered as against him. However a perusal of the records filed before the Court reveal that the petitioner had been involved only in FIR No.398 of 2012 and no other details have been provided either by the 2nd respondent or by any other authority with respect to any other criminal cases pending against the petitioner.

7. In the affidavit filed by the petitioner herein also, it is stated that no other criminal case is pending against him except the above. As a matter of fact, it is stated that the



trial in C.C.No.494 of 2017 had been completed and he had been acquitted of all charges.

8. In view of these facts, I hold that the 1st respondent ought to proceed further with the application given by the petitioner dated 12.08.2018 in application No.120819J5180V.

9. While the orders were being dictated, the learned counsel for the petitioner stated that the application is actually dated 12.08.2019 and in this regard, in the typed set of papers the date of the application is given as 12.08.2019. Therefore, the 1st respondent may proceed further with the said application dated 12.08.2019. It is again stated that in the prayer and affidavit of the writ petition, the date has been given as 12.08.2018. But, the actual date of the application is 12.08.2019.

10. With the above observations, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

vum

To

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4. The Special Revenue Inspector,
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Tiruchirapalli.



+1cc to Mr.AR.M.Arunachalam, Advocate SR.No.66

+1cc to Mrs.Sunitha kumari, Advocate SR.No.125

W.P.No.33473 of 2019

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RSI (CO)

GMV (22/01/2020)