



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD)No.1878 of 2019

Azarudheen

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Road,
Race Course Salai,
Madurai - 625 002.

2.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.

... Respondents

*(R2 impleaded vide Court order
dated 09.03.2020 in WMP(MD)No.4307 of 2020
in WP(MD)NO.1878/2019)*

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to issue passport to the petitioner by considering his application in file No.MD2061603029118 pending before him on the basis of his representation made before him by RPAD, dated 12.01.2019.

For Petitioner : Mr.B.Brijesh Kishore

For R1 : Mr.V.Kathirvelu
Assistant Solicitor General of India
Assisted by
Mr.K.Prabhu

For R2 : Mr.S.Sethuraman
Special Government Pleader

ORDER

This Writ Petition is filed to direct the respondents to issue passport to the petitioner, by considering the petitioner's
<https://hcservices.ecourts.gov.in/hcservices/>



application in file No.MD2061603029118, pending before the first respondent, on the basis of the petitioner's representation, dated 12.01.2019.

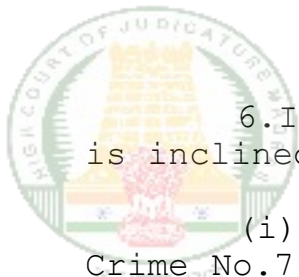
2.Heard Mr.B.Brijesh Kishore, learned counsel appearing for the petitioner, Mr.V.Kathirvelu, learned Assistant Solicitor General of India appearing for the first respondent and Mr.R.Sethuraman, learned Special Government Pleader appearing for the second respondent.

3.According to the petitioner, he has submitted an application for obtaining passport before the Passport Officer, Tirunelveli through online on 25.10.2018. The said application was taken on file in MD2061603029118. Even after the police verification, the first respondent has not taken any steps to issue the passport to him. Therefore, the petitioner appeared before the Passport Officer, Tirunelveli, on 29.10.2018 and furnished all relevant documents. On 12.12.2018, the first respondent sent an E-mail message to the petitioner stating that "furnish correct order in Crime No.790/2013 and fine paid receipt" and also held the petitioner's passport. Further, FIR was pending against him in Crime No.790 of 2013 in Thuckalay Police Station and the charge sheet has not been filed and the same is pending without progress. Therefore, the first respondent held the passport stating that the criminal case was pending against the petitioner. In this regard he made a representation dated 12.01.2019 to the first respondent to issue the passport. Since no action has been taken, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner submitted that the first respondent held the petitioner's passport stating that a criminal case has been registered in Crime No.790 of 2013 against the petitioner and the same is pending. He further submitted that pending of FIR cannot to be construed as the pendency of criminal proceedings, unless the Judicial Magistrate takes cognizance of offence on filing of the charge sheet after completing investigation against the accused. But, the petitioner's representation is still pending. Hence, he prays the aforesaid relief in the writ petition.

5.The learned Assistant Solicitor General appearing for the first respondent has filed a counter affidavit. The relevant portion of the counter affidavit is extracted hereunder:

"7.it is ;submitted that the petitioner had again applied for fresh passport vide file No.MD2061603029118 suppressing the information in the relevant column in his passport application, that he already applied for passport vide filed No.MD2069592495316. The petitioner's action having done so again attracts Section 12(1)(b) of Indian Passports Act, 1967."



6.In view of the submissions made on either side, this Court is inclined to pass the following order:

(i)The second respondent shall submit the status report in Crime No.790 of 2013 to the first respondent within a period of two weeks from the date of receipt of a copy of this order.

(ii)On receipt of such report, the first respondent is directed to consider the petitioner's representation, dated 12.01.2019 and pass orders on merits and in accordance with law, as expeditiously as possible preferably within a period of twelve weeks thereafter.

7.This Writ Petition is disposed of, with the above direction. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Regional Passport Officer,
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Bharathi Ula Road,
Race Course Salai,
Madurai - 625 002.

2.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.

W.P. (MD)No.1878 of 2019
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vsd/Ns

SDS (25.08.2020) 3P-3C