

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.1879 of 2019
and
W.M.P.No.2076 of 2019

Candasamy

... Petitioner

Vs

1. The Regional Passport Officer,
Regional Passport Office,
Royola Towers,
No.2 and 3, 4th Floor,
Old No.785, New No.158, Anna Salai,
Chennai - 600 002.
2. Assistant Foreigners Regional Registration Officer,
Bureau of Immigration,
Chennai International Airport,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 03.10.2018 quash the same consequently direct the respondents to release the petitioner's passport to enable him to go over to foreign countries, enjoy his old age

For petitioner ... Mr.S.N.Subramani

For Respondents... Ms.M.P.Jaisha

Central Government Standing Counsel
for R1

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ORDER

This writ petition has been filed challenging the order dated 03.10.2018, passed by the 2nd respondent, seizing the passport of the petitioner on the ground that during interrogation at the time of his departure to Colombo by Indigo Airlines Flight No.6E-1203, it revealed as follows:

"On interaction, the pax revealed that, he was

born in Lynford Tea Estate, Bogawantalawa, Nuwara Eliya Dist., Srilanka. His forefathers belongs to Pulivalam, Tamilnadu who went to Srilanka and settled there. Muthusamy Candasamy later married to a Srilankan lady namely Dhanaluxmie (Indian Passport No.J5218504). In the year 1985, then pax came to India along with his family (father, three daughters namely Karpaham (Indian Passport No.J2466006), Thevi Banumathy (Indian Passport No.J9412677), Goheela (Indian Passport No.Z1845547), two sons namely Myuran (Indian Passport No.J5216369) and Vijendran (Australian citizen) now residing in Adambakkam, Chennai.

2. Considering the change of place of birth, the above passport was seized and sent to RPO Chennai for further necessary action besides, the passenger advised to report for RPO Chennai in this regard."

2. Aggrieved by the same, this Writ Petition has been filed. The petitioner has produced before this Court in the typed set of papers, the following documents:

- i) Copy of Voter I.D.
- ii) Copy of Aadhar Card
- iii) Copy of Family Card
- iv) Copy of Patta Pass book
- v) Copy of the Passport

3. It is the contention of the petitioner that he was issued with the passport on 23.02.2017, which expired on 22.02.2027, and he has been travelling to various countries with the said passport. However, according to the learned counsel for the petitioner, arbitrarily and in total non-application of mind, without considering the aforementioned documents, the impugned order has been passed by the 2nd respondent, seizing the passport of the petitioner.

4. Heard Mr.S.N.Subramani, learned counsel for the petitioner and Ms.M.P.Jaisha, learned Central Government Standing Counsel appearing for the 1st respondent.

5. On instruction, Ms.Jisha, learned Central Government Standing Counsel for the 1st respondent would submit that the 1st respondent has called the petitioner for enquiry to establish his case that he is an Indian citizen. However, according to the learned Central Government Standing Counsel, the petitioner did not participate in the said enquiry.

6. Learned counsel for the petitioner, on instruction, would submit that since all the documents were sent to the 2nd respondent, there was no necessity for the petitioner to go for personal hearing. However, he would submit on instruction that

the petitioner is willing to go before the 2nd respondent with all the available documents to substantiate his case that he is an Indian Citizen, for which submission, learned Central Government Standing Counsel for the 1st respondent, on instruction, would submit that the 1st respondent is willing to hold fresh enquiry and consider the petitioner's case on merits and in accordance with law.

7. After recording the rival submission, this Court directs the 1st respondent to consider the petitioner's representation dated 13.11.2018 seeking for return of his original passport and pass final orders on merits and in accordance with law, after considering all the documents placed by the petitioner before the 1st respondent and also by affording him personal hearing, within a period of eight weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Regional Passport Officer,
Regional Passport Office,
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Chennai - 600 002.
2. Assistant Foreigners Regional Registration Officer,
Bureau of Immigration,
Chennai International Airport,
Chennai.

SKY (CO)
CB(22/03/2021)

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