

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.7848 of 2020

M.Gagan Bothra

...

Petitioner

Vs

1. The Regional Passport Officer,
Passport Office, Royala Towers,
No.2 and 3, IV Floor, Old No.785,
Anna Salai,
Chennai - 600 002.

2. The Inspector of Police (L & O),
C-2, Elephant Gate Police Station,
Walltax Road, Chennai - 79

...

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus, to quash the order dated 04.03.2020 passed by the first respondent and to direct the first respondent to consider the petitioner's application in File No.MA2071619491918 and to renew the passport within a stipulated time frame.

For petitioner

... Mr.M.Gagan Bothra,
Party-in-Person

For respondent -1

... Mr.L.J.Venkatesh, CGSC

For respondent-2

... Mr.V.Shanmugasundar,
Spl.Govt.Pleader

ORDER

This Writ Petition has been filed, challenging the order dated 04.03.2020 passed by the first respondent, closing the petitioner's application seeking for issuance of passport in his name on the ground that no response has been received from him for the show cause notice issued by the first respondent for a long period of time.

2. Mr.M.Gagan Bothra has appeared as party-in-person before this Court. He drew the attention of this Court to the reply dated 31.12.2018 sent by the petitioner to the show cause notice sent by the first respondent on 04.12.2018.

3. The petitioner claims that he has not suppressed any information in the application submitted by him with the first respondent for issuance of a passport in his name. According to him, a false case has been foisted against him, which is the subject matter of C.C.No.775 of 2019. It is his case that arbitrarily and by total non-application of mind to the reply dated 31.12.2018, the impugned order has been passed by the first respondent, closing the petitioner's passport application. In the aforementioned circumstances, this Writ Petition has been filed.

4. Heard Mr.M.Gagan Bothra, Party-in-Person for the petitioner, Mr.L.J.Venkatesh, learned Central Government Standing counsel appearing for the respondent-1 and Mr.V.Shanmugasundar, learned Special Government Pleader appearing for the respondent-2.

5. The first respondent has filed its counter affidavit denying the allegations of the petitioner. The first respondent has stated in paragraph 4 of the counter that they received an adverse police verification report about the petitioner from the Commissioner of Police, Chennai on 18.11.2018 stating that a case in Crime No.271 of 2018 has been registered against the petitioner under Sections 294(b), 323, 506 (i) of I.P.C and the same is under investigation. However, according to them, in the passport application submitted by the petitioner, he has declared only about the registration of F.I.R.No.213 of 2017 against him under Sections 420, 465, 466, 467 of I.P.C. in CCB/CBCID, Allikulam, Chennai and did not disclose about the registration of F.I.R.in Crime No.271 of 2018 under Sections 294 (b), 323, 506(i) I.P.C. However, they would admit that a reply was received by the first respondent from the petitioner on 02.01.2019 to the show cause notice sent by the first respondent on 04.12.2018.

6. Mr.M.Gagan Bothra, the party-in-person would submit that subsequently a charge sheet was filed in the aforementioned cases and the trial has already commenced in C.C.No.775 of 2019 pending on the file of the VIIIth Metropolitan Magistrate, George Town and it is posted for judgement on 12.02.2021.

7. This Court has perused and examined the impugned order. Under the impugned order closing the petitioner's passport application, there is no reference to the reply dated 31.12.2018 sent by the petitioner to the show cause notice dated

04.12.2018 sent by the first respondent. Admittedly, as seen from the counter affidavit filed by the first respondent, the first respondent has admitted that they received the reply from the petitioner to the show cause notice on 02.01.2019. However in the impugned order, the first respondent has observed that no reply was sent by the petitioner. By total non-application of mind to the reply dated 31.12.2018, the first respondent has passed the impugned order closing the petitioner's application for passport.

8. Since the reply sent by the petitioner to the show cause notice dated 04.12.2018 has not been considered, the impugned order will have to be necessarily quashed and the matter remanded back to the first respondent for fresh consideration on merits and in accordance with law.

9. In the result, the impugned order dated 04.03.2020 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration and the second respondent shall pass final orders on the petitioner's application seeking for issuance of passport on merits and in accordance with law after affording a fair hearing to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.

10. With the aforesaid direction, this Writ Petition is disposed of. No costs. It is made clear that this Court is not expressing any view with regard to the merits of the matter.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

srn

To

1.The Regional Passport Officer,
Passport Office, Royala Towers,
No.2 and 3, IV Floor, Old No.785,
Anna Salai,
Chennai - 600 002.

+2cc to Mr.M.Gagan Bathra, (Party in person)SR.7601

W.P. No.7848 of 2020

PA(CO)
CB(08/03/2021)