



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.8963 OF 2021

Mano Bichemane

... Petitioner

.Vs.

1. The Deputy Secretary to Government,
Ministry of Home Affairs,
North Block, New Delhi - 110 001.
2. The Chief Immigration Officer,
No.26, Shashtri Bhavan Annex,
Haddows Road, Nungambakkam,
Chennai - 600 034.
3. The Foreigners Regional Registration Officer (FRRO),
Bureau of Immigration,
(MHA) Government of India,
Chennai - 600 006.
4. The Airport Director,
Chennai International Airport,
Meenambakkam,
Chennai - 600 027.

...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call the records pertaining to the order of the 1st respondent in F.No.18037/48/2020-F.VII dated 28.05.2020 and to quash the same as illegal, incompetent and ultravires and consequently direct the 1st respondent to remove the name of the petitioner from the permanent "Ban Entry" category dated 02.03.2016.

For Petitioner : Mr.M.Guruprasad

For R1 to R3 : Mr.R.Babu Manohar
Central Government Standing Counsel

For R4 : Mr.S.Venkatesan



O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call the records pertaining to the order of the 1st respondent in F.No.18037/48/2020-F.VII dated 28.05.2020 and to quash the same as illegal, incompetent and ultravires and consequently direct the 1st respondent to remove the name of the petitioner from the permanent "Ban Entry" category dated 02.03.2016.

2. The case of the petitioner is that he is a French Citizen. during the year 1996, when the petitioner came down to India. The Airport immigrant Authorities arrested the petitioner for the offence under Section 132, 135(1)(a) & 135(1)(b)(1) of Conservation of Foreign Exchange & Prevention of Smuggling Activities Act for the possession of gold coins, for which, the petitioner was convicted and sentenced him to undergo 13 months imprisonment and fine. On 03.09.1998 he left India. Again, during the years 1999 and 2001, the petitioner applied for VISA for the death of his brother and mother, the same was refused. Therefore, the petitioner illegally entered India without any visa. the Station House Officer, Puducherry arrested the petitioner and remanded to judicial custody. After filing charge sheet, the learned Judicial Magistrate, convicted the petitioner and sentenced to impose fine.

3. In the meanwhile, the Foreigners Regional Registration office, Bureau of Immigration had issued leave India notice on 17.02.2016 to the petitioner directing him to leave India within seven days. On 22.02.2016, after receipt of the said notice, the petitioner left India on 25.02.2016. Therefore, the petitioner filed a Writ Petition in W.P.no.8481 of 2015 before this court to consider his representation and to remove/delete his name from immigration warning/banned/Black list and got order in his favour. After obtained the order in the aforesaid writ petition, the petitioner again got VISA from Indian Embassy for a period of six months for medical treatment. When he came to India on 08.01.2019, the immigration officials detained the petitioner and sent him back to France. Again the petitioner has filed a writ petition before this Court direct the respondent to remove the name from the permanent Ban Entry category dated 02.03.2016 and he has also made a representation to the first respondent. The first respondent rejected the petitioner's representation vide proceedings in F.No.18037/48/2020-F, VII dated 28.05.2020. The reason for rejecting the representation of the petitioner is that he entered India illegally through Nepal and he was convicted under Section 14(b) of Foreigners Act 1946 vide judgment dated 11.12.2015 by the learned Judicial Magistrate-I, Puducherry. For the illegal activity of the petitioner, he was



blacklisted on 02.03.2016. Challenging the same, the petitioner has filed the present writ petition before this Court.

4. The learned counsel for the petitioner submitted that due to his emotional bonding toward his family, he entered India through Nepal, when the petitioner's mother and brother died and he regrets for his mistake for illegal entrance. The first respondent has blacklisted the petitioner for the mistake he committed and also punished by the learned Judicial magistrate-I, Puducherry in the year 2015. The first respondent punished the petitioner once again for the same mistake by blacklisting him on 02.03.2016 which is in force till 28.02.2023. Hence the learned counsel prays to quash the proceedings of the first respondent and allow this petition.

5. On the other hand the respondents have filed a counter affidavit which has been sworn by the third respondent, working as the Foreigners Regional Registration Officer. In para 15 of the counter affidavit, it is stated as follows:

'15. It is further submitted that it may also be stated as per Section 3 of the foreigners Act, 1946, the Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigners, for prohibiting, regulating or restricting the entry of foreigners into India or their departure there from or their presence continued presence therein. Thus the Central Government has sovereign powers to ban, refuse or prohibit a foreigner from entering India in the interest of nation security, peace, harmony etc., under Section 3 of the Foreigners Act, 1946.'

6. Heard the learned counsel for the petitioner as well as the learned Central Government Standing Counsel and perused the materials available on record.

7. It is the grievance of the petitioner that the order of blacklisting the petitioner from entering into the country, he could not come down to India till 28.02.2023. The learned Standing Counsel submitted that due to continuous illegal activities of the petitioner, his name was blacklisted and the same is still in force.

8. This court, on these facts, cannot issue any remedy, sought by the petitioner. As on today, blacklisting the petitioner from entering into the country is in force till 28.02.2023. However, this court cannot insist the respondents to permit the petitioner to enter into the country inspite of the



order of blacklisting him. These are the issues to the exclusive purview of the respondents who have to pass necessary orders. If the petitioner is aggrieved by the order of blacklisting, he has to challenge the same before the appropriate forum and this court cannot issue any directions to the first respondent. In view of the aforesaid reasons, this court is not able to grant any relief sought by the petitioner. The petitioner is directed to make a fresh representation to the respondents after expiry of the ban period. After receipt of such representation, the respondents shall consider the same and pass appropriate orders on merits and in accordance with law.

9. In the result, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

rli Sub Assistant Registrar

To

1. The Deputy Secretary to Government,
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Chennai International Airport,
Meenambakkam,
Chennai - 600 027.

+1cc to Mr.S.Venkatesan, Advocate, S.R.No.61023
+1cc to Mr.M.Guruprasad, Advocate, S.R.No.61628
+1cc to Mr.R.Babu Manohar, Advocate, S.R.No.60764

W.P.No.8963 of 2021

BP(CO)
PM/24/01/2022