



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.11790 OF 2021

T.Ganesan
Sri Lankan Refugee Camp
Irumbhothipatty
Sivayam Post
Krishnarayapuram Taluk
Karur District 624 002.

.. Petitioner

Versus

1. The Government of India,
represented by its Secretary to
the Government,
Ministry of Home Affairs,
Government of India, North Block,
New Delhi 110 001.
2. The Government of India,
represented by its Secretary to Govt.,
Ministry of External Affairs,
Government of India, South Block,
New Delhi 110 001.
3. The State of Tamil Nadu,
represented by its Secretary to Government,
The Home Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.
4. The Commissioner,
Department of Rehabilitation,
Ezhilagam, Chepauk,
Chennai 600 005.
5. The District Collector,
District Collector Office,
Karur District 639 007.
6. The Special Tahsildar (Refugee),
Refugee Camp, Irumbhothipatty,
Karur District 639 007

.. Respondents



Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to confirm the petitioner and his family Citizenship as Indians with the relief package applicable for the repatriates in a humanitarian view based on his representation dated 23.1.2021.

For Petitioner : Mr. Romeo Roy Alfred
for Mr. G. Irudayasamy

For Respondents : Mr. B. Rabu Manohar, SCGPC
for R1 and R2

Mr. G. Krishnaraja
Govt. Counsel for R3 to R6

ORDER

The relief sought for in this Writ Petition is to issue a Writ of Mandamus directing the respondents to confirm the petitioner and his family Citizenship as Indians with the relief package applicable for the repatriates in a humanitarian view based on his representation dated 23.01.2021.

2. According to the petitioner, he is an Indian Origin Tamil, born in Srilanka. It is stated that the petitioner's forefathers migrated from Tamil Nadu to Srilanka for working in Tea Plantation Estates in Srilanka during British period. It is further stated that the petitioner was issued passport by Assistant High Commission of India, Kandy, Sri Lanka for repatriation to India in the wake of India-Sri Lanka Agreements 1964 and 1974. However, due to suspension of repatriation process by India and on account of escalation of ethnic violence in Sri Lanka, he was unable to reach India as per the channel and he reached India by boat in 1990. The grievance of the petitioner is that though he is an Indian Citizen, he was wrongly tagged as Srilankan refugee and was put to stay in the refugee camps. According to the petitioner, earmarking an Indian citizen as Sri Lankan refugee is a serious assailment on his right to life and personal liberty guaranteed under Article 21 of Indian Constitution. Having regard to the same, the petitioner sent a detailed representation to all the respondents enclosing the required documents. The first respondent, on receipt of his representation, forwarded the same to respondents 2 to 4 for appropriate action. He received a response from the 4th respondent vide his letter dated 9.3.2021 stating that the petitioner's claim of citizenship is the



policy decision of Central/State Governments. It is the case of the petitioner that though his entry to India was purely legal, he and his wife were already being an Indian citizens, they were falsely earmarked as Sri Lankan refugees, which is in violation of their right to life and personal liberty guaranteed by our Constitution. Hence the petitioner has come up with this writ petition for the aforesaid relief.

3. The learned counsel for the petitioner brought to the notice of this Court the Office Memorandum dated 01.03.2021 issued by the Deputy Director, Ministry of Home Affairs, Foreigners Division, Government of India in which it was stated as follows:-

"2. In a related matter, Assistant High Commissioner of India, Kandy, Sri Lanka vide e-mail dated 26th November 2019 (copy enclosed) had informed that Indian Citizenship was granted to Indian Origin Tamils (IOTs) of Sri Lanka in terms of the Sirimavo Shastri Agreement of 1964 and Sirimavo Gandhi Agreement of 1974. High Commission of India, Kandy further informed that IOTs of Sri Lanka were registered as Citizens of India under the provisions of Section 5 (1) (b) of the Citizenship Act, 1955 and Indo-Sri Lankan Passports were issued to those individuals.

3. In view of the fact that the records regarding these registrations are available with the Ministry of External Affairs and in view of the claim of Shri. T. Ganesan that he entered into India as per the agreements between India and Sri Lanka, the reference received from him is being forwarded for appropriate action as per extant Acts/Rules.

4. By pointing out the above Official Memorandum dated 01.03.2021, the learned counsel for the petitioner submits that pursuant to the Official Memorandum dated 01.03.2021, no action has been taken by the respondents herein and therefore, he prays this Court to issue appropriate direction to the respondents to consider the claim of the petitioner.

5. Mr. Rabu Manohar, learned Senior Central Government Panel Counsel appearing for the respondents 1 and 2 fairly submitted that the authorities concerned will pass appropriate orders within a period of six weeks.

6. Heard both sides and perused the materials available on record. It is evident from the Office Memorandum dated 01.03.2021 that the petitioner's claim was directed to be considered by the authorities concerned. However, it is stated that so far, no action has been taken pursuant thereto. Having



regard to the submissions made on either side, this Court directs the first Respondent to consider the representation of the petitioner dated 23.01.2021 and pass orders on the same on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

7. With the aforesaid direction, this writ petition stands disposed of. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

msr/rsh

To

1. The Secretary to the Government,
Government of India,
Ministry of Home Affairs,
Government of India, North Block,
New Delhi 110 001.
2. The Secretary to Govt.
Government of India,
Ministry of External Affairs,
Government of India, South Block,
New Delhi 110 001.
3. The Secretary to Government,
State of Tamil Nadu,
The Home Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.
4. The Commissioner,
Department of Rehabilitation,
Ezhilagam, Chempauk,
Chennai 600 005.
5. The District Collector,
District Collector Office,
Karur District 639 007.



6. The Special Tahsildar (Refugee),
Refugee Camp, Irumbhoothipatty,
Karur District 639 007

+1cc to M/S I.Romeo Roy, Advocate, SR.No.40600

+1cc to M/S B.Rabu Manohar, Advocate, SR.No.40819

+1cc to Government Pleader, SR.No.41067

WP No. 11790 of 2021

PL (CO)

PM(02/09/2021)