



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.25890 of 2021

P.B. Aravind Ganesh

...Petitioner

vs.

1. The Regional Passport Officer,
O/o, Regional Passport Office,
Rayala Towers,
Chennai-600 002.
2. Deputy Commissioner of Police,
O/o, Deputy Commissioner of Police,
(Triplicane Range),
Chindathiripet, Chennai.
3. The Inspector of Police,
D2, Anna Salai Police Station,
Anna Salai, Chennai.

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call the records in the closure order vide letter no.FCL/311279025/21 dated 7.10.2021, passed by the 1st respondent and quashed the same and further directed the 1st respondent to reconsider the petitioner's passport application vide no.MA1063093376120, in pursuance to his representation dated 27.10.2021.

For Petitioner	: Mr.P. Muthamizh Selvakumar
For 1 st Respondent	: Mr. M. Arvind Kumar, Senior Panel Counsel
For Respondents 2 & 3	: Mrs. C. Sangamithirai, Special Government Pleader

ORDER

The present petition has been filed seeking quashment of the impugned order dated 07.10.2021 passed by the 1st respondent and a direction to reconsider the petitioner passport application in pursuance to the petitioner's representation.

2. Mr. M. Arvind Kumar, Senior Panel Counsel takes notice to the 1st respondent and Mrs.C. Sangamithirai, Special Government Pleader takes notice to respondents 2 & 3.



3. The case of the petitioner is that due to the property dispute between his father and his neighbour who is the uncle of the petitioner, a case was registered in Crime No.3015 of 2015 u/s 324 & 341 of I.P.C against the petitioner on the file of the 3rd respondent herein in the year 2015, in which after investigation, a final report was filed before the learned Metropolitan Magistrate-II, Egmore, Chennai and same is pending. While being so, in the year 2020, the petitioner had made an application dated 10.11.2020 with the 1st respondent, at which time, the petitioner mentioned that there is no case pending against him till date. However, the petitioner received a communication dated 26.11.2020 from the 1st respondent seeking for explanation from the petitioner, based on the adverse report forwarded by the 2nd respondent. However, due to COVID pandemic, the petitioner was unable to give explanation as sought for by the 1st respondent. Thereafter, the 1st respondent had rejected the petitioner's application for passport vide impugned order dated 07.10.2021. Thereafter, the petitioner made a representation dated 27.10.2021 to the 1st respondent. However, till date no action has been taken on the same. Hence the present Writ Petition is filed seeking quashment of the impugned order dated 07.10.2021.

4. Learned counsel for the petitioner submits that the petitioner inadvertently not disclosed the fact that there is a case pending against the petitioner at the time of applying for the passport with the 1st Respondent and had not suppressed the same with malafide intention and further the said case came to be registered against the petitioner due to a civil dispute between the parties. Hence, the impugned order dated 07.10.2021 is liable to be quashed as prayed for in the present petition and the petitioner's application dated 10.11.2020 may be reconsidered by the 1st respondent and appropriate orders be passed on the same within the time frame fixed by this Court.

5. Learned Senior Panel Counsel for the 1st respondent submits that the adverse report given by the 2nd respondent herein had revealed that there is criminal case pending against the petitioner and that the petitioner had applied for the passport by suppressing the same. Thereafter, the 1st respondent had passed an impugned order on 07.10.2021, rejecting the petitioner's application for passport, granting liberty to the petitioner to make a fresh application for passport with all the necessary documents. However, instead of making a fresh application, filing of the Writ Petition before this Court is not sustainable. Hence, the relief sought for by the petitioner cannot be granted and this Writ Petition is liable to be dismissed.



6. Heard the learned counsel on the either side and perused the materials available on record.

7. A careful perusal of the materials available on record reveals that a case was registered against the petitioner and the same is pending. However, without disclosing the same, the petitioner had applied for passport before the 1st respondent herein. The 1st respondent on coming to know about the pending criminal case against the petitioner, had passed an impugned order on 07.10.2021 rejecting the petitioner's application for passport. Aggrieved by the same, this Writ Petition is filed before this Court seeking quashment of the impugned order.

8. Though the learned counsel for the petitioner claims that the petitioner had inadvertently failed to reveal about the pending case against him which came to be registered due to a civil dispute between the parties therein, the inadvertency of the petitioner in not disclosing the fact, cannot be a ground to set aside the impugned order as on appreciation of the materials available, the impugned came to be passed.

9. Therefore, this Court does not find any perversity in the impugned order and hence the same cannot be set aside. However, it should also not be lost sight of that the case against the petitioner is an off-shoot of a civil dispute, which, even according to the petitioner, he has inadvertently failed to mention. The respondents have also fairly stated that the petitioner may file a fresh application with all the relevant documents, which would be considered in accordance with law.

10. Such being the case, the petitioner is directed to make a fresh application for passport before the 1st respondent herein with all necessary documents within a period of four weeks from the date of receipt of a copy of this order. If such application is filed, the 1st respondent is directed to consider the same and pass appropriate orders in accordance with law as expeditiously as possible.

11. Accordingly, this Writ Petition is disposed of with the aforesaid direction. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

NHS



To

1. The Regional Passport Officer,
O/o, Regional Passport Office,
Rayala Towers,
Chennai-600 002.

2. Deputy Commissioner of Police,
O/o, Deputy Commissioner of Police,
(Triplicane Range),
Chindathiripet, Chennai.

3. The Inspector of Police,
D2, Anna Salai Police Station,
Anna Salai, Chennai.

+1 cc to Mr.M. Arvind Kumar, Advocate Sr.NO. 63953

+1 cc to Government Pleader Sr.NO. 64379

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GPL(CO)

A.SK(03.02.2022)