



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.[MD]No.2850 of 2021

S.K.Hithayathulla

... Petitioner

Vs.

1.The Government of India,
Ministry of External Affairs,
New Delhi.

2.The Government of India,
Ministry of External Affairs,
Regional Passport Office,
Madurai Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the second respondent to issue passport to the petitioner's brother son, by considering his application No.21-1000939061 dated 07/02/2021 along with affidavit of the petitioner as cousin father for his education purpose for the study of MBBS in TAMBOV STATE UNIVERSITY RUSSIA.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mrs.L.Victoria Gowri

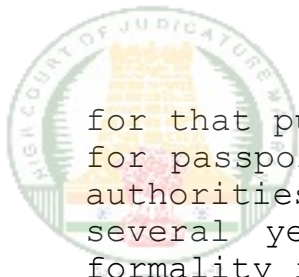
Assistant Solicitor General

O R D E R

The case of the petitioner is that one Mohamed Ibrahim married one Pathu Muthu, 26 years ago and from the matrimonial relationship, they had begotten one daughter by name Syed Ali Pathima and two sons namely Kattu Bhava Shiek Shahul and Mohamed Aathil. According to the petitioner, his brother had gone missing 15 years ago and the petitioner's brother's wife became mentally depressed and she has been taking treatment for her depression for the last several years.

2.In view of the dislocation of the family of his brother, the petitioner has taken care of the education of one of the sons of his brother Mohamed Aathil and he has completed his school final and secured very good marks. He is aspiring to pursue his medical course for which he has sought admission in Russian University and according to the averments in the affidavit, he has also been favoured for admission in the TAMBOV State University, Russia and has been attending classes online since November, 2020.

3.However, the brother's minor son Mohamed Aathil may have to go to Russia for continuing his MBBS course for physical classes and



for that purpose, he has to be given passport. Therefore, he applied for passport online on 27.10.2020, by paying necessary fees and the authorities were explained about the missing of his father for several years and inability of his mother in going through any formality in respect of issuance of passport to her minor son.

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4.The minor applicant along with this petitioner appeared to have met the respondent officer on 29.12.2020 and certificate of the Government hospital dated 11.12.2020 was also produced in support of the mental condition of the minor boy's mother. He was also advised to give an affidavit and whatever the requirements of the passport officer, the same has been complied with by the petitioner.

5.In view of the urgency of the petitioner, to continue his studies by physically going to the Russian University to attend physical classes, the petitioner is before this Court seeking a direction to the second respondent for issuance of passport, to his brother's son by considering his application dated 07.02.2021.

6.Notice was ordered and on behalf of the second respondent, the counter affidavit has been filed. In the counter affidavit, the following is stated:

"8.It is submitted that, based on the situation of the minor applicant the passport application has been accepted sympathetically, however, the medical certificate has been issued in a plain A4 size paper by Assistant Medical Officer, Government Primary Health Centre, hence, the same was referred to the Health Department of District Collectorate, Ramanathapuram for authenticity and also to confirm whether the issuing authority, the Assistant Medical Officer, Government Primary Health Centre is competent to issue such medical certificate. Their reply is awaited."

9.It is submitted that the minor applicant will attain his majorhood on 19.06.2021, hence, the passport application will be processed in accordance with the Indian Passports Act, 1967 either on receipt of confirmation report from the District Health Department, Ramanathapuram OR on or after 19.06.2021 which ever comes earlier."

7.Learned Counsel for the petitioner would submit that a direction may be issued to the second respondent to consider and issue passport, the moment when an authenticity of the certificate produced by the petitioner in regard to the health status of the minor applicant's mother and also in terms of the averments as contained above.



8.This Court considered the pleadings and the averments contained in the counter affidavit.

9.The facts would disclose that the minor applicant would have to go abroad for pursuing his studies in medical course and in that event, he is to be issued with passport by the second respondent. Unfortunately, because of the peculiar conditions in which the minor boy was placed, his request for issuance of passport was delayed in order to verify the claims of the minor applicants as to the fact of missing of his father for several years and also the mental condition of his mother. In any case, the second respondent has clearly conceded that the application of the petitioner would be considered earnestly after the medical certificate produced by the petitioner from the health department. Further, the minor applicant is attaining majority on 19.06.2021.

10.In the above said circumstances, this writ petition is disposed of with a direction to the second respondent to process the application dated 07.02.2021, immediately after receipt of authenticity letter from the department concerned, in respect of the medical status of the minor applicant's mother and issue passport to the petitioner within a period of one [1] week from the date of receipt of a copy of this order, to enable the minor applicant to proceed abroad for pursuing his studies in the Russian University.

11.This Writ Petition is ordered accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

To

- 1.The Ministry of External Affairs,
Government of India,
New Delhi.
- 2.The Ministry of External Affairs,
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Regional Passport Office,
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