



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.03.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

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W.P(MD)No.5060 of 2021
and
W.M.P(MD)Nos.4061 and 4063 of 2021

Jamal Mohideen

... Petitioner

Vs

The Regional Passport Officer,
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, to issue a writ of certiorari calling for records relating to the impugned order made by the respondent in Letter Ref. No.SCN//310711683/21, dated 19.02.2021 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mrs.L.Victoria Gowri,

Assistant Solicitor General of India

ORDER

The petitioner claims himself to be a senior citizen and an Indian national. His father Mohideen Meera Sahib is an Indian citizen, who held a valid Indian Passport. His father was born in India on 22.07.1923 and was an Indian citizen throughout his lifetime. His father during his lifetime visited Sri Lanka for business and married the petitioner's mother, who was a Sri Lankan national. From the wedlock, the petitioner was born on 22.02.1960. In the year 1981 the petitioner had returned to India and had been residing in his village namely Kayamozhi, Tuticorin District since then. The petitioner was born in India in the year 1960 and his father was citizen of India by descent as per Section 4(1)(a) of the Citizenship Act, 1955. The petitioner has also been issued with an Indian passport in the year 1990 and the same has also been renewed in the year 2014. Moreover petitioner's wife is an Indian citizen and their children are all born in India and they are also Indian citizens.

2.According to the petitioner, certain relatives with nefarious intention of grabbing the petitioner's property appeared to have made some anonymous complaints to the Government stating that the



petitioner was not a Indian citizen..

3.The petitioner therefore was constrained to file a writ petition in W.P(MD)No.3431 of 2004 seeking to forbear the respondents, namely the district administration and the police officer from harassing him on the basis of certain anonymous complaints by the vested interests. After considering the legal principles on the subject matter, this Court has also granted interim protection restraining the district administration and Police from harassing petitioner in regard to his citizenship status in 2007 and thereafter, the petitioner claims to have been living peacefully without any interference or harassment from the district administration or police.

4.While matters stood thus when the petitioner approached the authority for re-issuance of the passport, as part of the required procedure the police verification was sought. At this, the respondents issued notice dated 19.02.2021 stating "passport authority is satisfied that the passport is in wrongful possession". A cryptic order has been without disclosing the basis for such a conclusion. The order appears to have been passed on the basis of the local police report. The petitioner was directed to surrender his passport as a consequence of the notice and challenging the same the petitioner is before this Court.

5.This Court while entertaining this writ petition has granted interim stay. Notice was issued to the respondent. Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India had entered appearance in response to the notice in the proceedings. A counter affidavit has been filed on behalf of the respondent. In the counter affidavit, it is averred that the petitioner has obtained citizenship of Sri Lankan and also Sri Lankan Passport in the year 1975 and also married a Sri Lankan woman. The petitioner was also accused of fraudulently obtaining Aadhaar card and voter identity locally and therefore, action to be initiated against him under the provision of the Indian Passport Act.

6.At this the learned Counsel for the petitioner Mr.M.Mahaboob Athiff would submit that the order *per se* did not disclose any reason for coming to the conclusion against the petitioner's citizenship right. If only appropriate opportunity had been extended to the petitioner he could have explained as to his entitlements to get the Indian passport as per Section 4 of the Indian Passport Act, 1955.

7.The learned counsel would also draw the attention of this Court to the detailed representation submitted by the petitioner to the respondent on 06.01.20201 narrating the entire sequence of events of this birth, migration and other details justifying his



claim for grant of Indian citizenship. In fact, when show cause notice was issued to the petitioner, he had submitted a detailed representation as above but without reference to the representation to the explanation as contained in the explanation, simply the impugned order has been passed revoking the passport of the petitioner and directed him to submit the same to the passport officer with immediate effect. He would therefore submit that such order, on the face of it does not disclose any application of mind and hence, the petitioner may be given an opportunity to represent to respondent and he may also be permitted to submit a fresh and comprehensive representation with supportive materials and the authority may be directed to consider the representation afresh and then pass a reasoned order.

8. According to the learned Assistant Solicitor General of India that the petitioner has fraudulently obtained certain Indian documents and with the support of the same, he has also obtained Indian Passport. After noticing the same a complaint has been filed against petitioner and the respondent felt that the petitioner was not entitled to hold Indian Passport and therefore, it was rightly revoked.

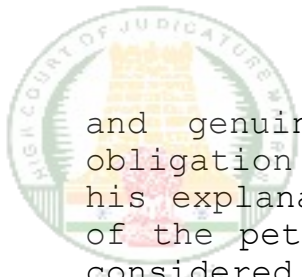
9. This Court has considered the submission of the learned Counsels and also perused the pleading and the impugned order.

10. As rightly contended by the learned Counsel for the petitioner, the order passed by the respondent is rather cryptic and a non speaking order.

11. When the respondent has taken a drastic decision of revocation of the passport of the petitioner and the effect of the such revocation amounted to stripping of the Indian citizenship of the the petitioner, minimum, elementary principle is that the impugned order must disclose application of mind, but unfortunately, the impugned order did not contain any reason at all.

12. In the absence of any reason in the impugned order, the same is liable to be interfered with. In fact in the counter affidavit on behalf of the respondents, many facts have been stated, but unfortunately, those facts are refuted by the petitioner herein and asserted that the petitioner is entitled to be granted Indian citizenship and the passport in terms of the provisions of the Indian pass port Act.

13. Therefore, for more than one reason that the petitioner ought to be granted effective opportunity of being heard before any decision is taken by the respondent as to the entitlement of the petitioner to be issued with the Indian Passport. In this circumstances of the case, this Court is convinced that the request by the learned counsel for the petitioner appears to be legitimate



and genuine and even otherwise the respondent is under legal obligation to provide reasonable opportunity to the petitioner, seek his explanation before proceeding any further against the interest of the petitioner. In the said circumstances, this Court is of the considered view that the impugned order is liable to be interfered with.

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14.For the above said reasons, the impugned order is set aside. The respondent is directed to afford an opportunity of hearing to the petitioner. The petitioner may also submit representation justifying his claim for issuance of passport with supportive materials and any such representation with documents may be submitted to the respondent within a period of two weeks from the date of receipt of a copy of this order.

15.The respondent is directed to pass appropriate final orders within a period of four weeks from the date of receipt of a copy of such representation and while passing orders, the respondent is also directed, particularly consider the claim of the petitioner with reference to section 4 of the Citizenship Act, 1955.

16.The writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Regional Passport Officer,
Regional Passport Office (Madurai),
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.

W.P (MD) No.5060 of 2021

29.03.2021

AS (24.05.2021) 4P 2C