



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P(MD)No.8433 of 2021

Hyderali

... Petitioner

versus

The Regional Passport Officer,
Regional Passport Office,
Madurai Bharathi Ula Veethi,
Race Course Road,
Madurai.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondent to issue a passport to the petitioner by considering the petitioner's application taken on file as File No.MD1062101283519 in the light of judgment made by this Court in W.Jaihar William - vs - State of Tamil Nadu, 2014 2 CWC 684 within the time that may be stipulated by this Court.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mrs.B.Deepa,
Central Government Standing Counsel

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the respondent to issue passport to the petitioner, on considering his application, within the time stipulated by this Court.

2. The case of the petitioner is that he applied for a passport on 07.05.2019. Thereafter, a notice was issued to the petitioner by the respondent, seeking for his explanation regarding an FIR that was pending against the petitioner in Crime No.516/2018. Admittedly, the petitioner did not give any reply for this notice. The petitioner proceeded to file the present writ petition mainly on the ground that the pendency of an FIR by itself is not a ground to deny passport, since it cannot be construed as a criminal case against the petitioner.

3. A counter affidavit has been filed by the respondent. A stand has been taken to the effect that the petitioner had suppressed the pendency of a criminal case against him, while submitting his application for passport. Thereafter, a show cause notice has been issued to the petitioner and there was no reply. The respondent was not able to proceed further with the application and ultimately, it was closed on 28.07.2020.



4. Heard Mr.D.S.Haroon Rasheed, learned counsel for the petitioner and Mrs.B.Deepa, learned Standing Counsel for Central Government appearing for the respondent.

5. The application submitted by the petitioner has already been closed by the respondent through proceedings dated 28.07.2020. The main ground on which the application was not entertained was that the criminal case that was pending against the petitioner in Crime No.516/2018 was not revealed and the petitioner had submitted the application as if there is no criminal case pending against him.

6. This Court has repeatedly held that mere pendency of an FIR cannot be a ground to deny the passport unless the FIR translates itself into a final report and the same is taken cognizance by a competent Court. It is only at this stage, the FIR will be construed as a criminal case against the applicant.

7. In view of the above, there shall be a direction to the petitioner to make a fresh application by providing correct facts and revealing the pendency of FIR against him. The respondent, on receipt of the same, shall process the application and if it is found that the criminal case is only in the stage of FIR, the same should not stand in the way of the respondent in processing the application. If the petitioner satisfies all other requirements, the application shall be processed and the passport shall be given to the petitioner. This process shall be completed by the respondent within a period four (4) weeks from date of receipt of the fresh application from the petitioner.

8. This writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

<https://hcservices.ecourts.gov.in/hcservices/>



The Regional Passport Officer,
Regional Passport Office,
Madurai Bharathi Ula Veethi,
Race Course Road,
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WEB COPY

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