



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.6482 OF 2022

A.Purusothaman
S/o. Mr.Anbalagan

... Petitioner

..Vs..

1. The Regional Passport Officer/Passport Authority,
Royala Towers IV Floor
Old No. 785, New No.158, Anna Salai
Chennai 600 002.

2. The Consulator,
Embassy of India,
Lisbon, Rua Paro Da Covilha,
No.16, 1400-297, Lisbob, Portugal

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue any writ, order or direction in the nature of Writ of Mandamus, directing the respondents to renew the Passport of the petitioner (Passport No. K 4667316) within a time period that may be fixed by this Hon'ble Court.

For Petitioner : Mr.K.Thilageswaran

For R1 : Mr.B.Ramprabu
Special Government Pleader

ORDER

This Writ Petition has been filed for a mandamus seeking for a direction to the first respondent to renew the passport of the petitioner based on his renewal application.

2. According to the petitioner, he is an Indian citizen presently working in Portugal. He has applied for renewal of his passport with the second respondent. His existing passport



expired on 22.01.2022. The application for renewal was submitted on 22.10.2021. However, the first respondent has not processed the application on the ground that there is an adverse report received from the police authorities in India against the petitioner and there are also some pending court cases against him. Therefore, the first respondent has informed the petitioner on 07.12.2021 that he will have to give full particulars about the criminal cases pending against him as well as the court cases from the concerned police authorities and only thereafter, they will be in a position to process the petitioner's application seeking for a renewal of his passport.

3. Learned counsel for the petitioner, on instruction, would submit that the police cases referred to by the first respondent in his communication dated 07.12.2021 are only traffic violation cases and are not serious offences. He would also submit that the petitioner's passport has already got expired, even though he had applied for renewal much ahead in advance before its expiry. He would also submit that his visa will also get cancelled if the petitioner's passport is not renewed expeditiously.

4. Learned standing counsel for the first respondent would submit that since police cases are pending against the petitioner, a report from the respective police stations, which have registered the cases have to be furnished to the respondents. Further he would submit that the petitioner has also not impleaded the concerned police station which has registered the case against the petitioner as a party respondent in this Writ Petition.

5. It is settled law that pendency of an FIR will not prohibit the respondents from issuing/renewing the passport to an applicant. It is for the respondents to decide, depending upon the facts and circumstances of each case, as to whether the passport can be issued/renewed to the applicant. It also depends upon the nature of the FIR that has been registered against the applicant. In the instant case, the learned counsel for the petitioner would submit that the nature of the offence against the petitioner is only a traffic violation offence and is not serious in nature.

6. The learned Standing counsel appearing for the first respondent, on instruction, would submit that the respondents are not aware of the nature of the offences registered against the petitioner.

7. Since the petitioner is employed in Portugal, who has applied for renewal of his passport through Indian Embassy,



namely the second respondent, and he also apprehends that his visa will also get cancelled if the passport is not renewed expeditiously, this Court is of the considered view that no prejudice would be caused to the respondents if the petitioner's application seeking for renewal of his passport is considered on merits and in accordance with law after affording a fair hearing to the petitioner including granting him the right of personal hearing. In case the petitioner does not satisfy the requirements of the respondents for renewing the passport, they are at liberty to reject his application. It is for the petitioner to establish his right to get his passport renewed before the second respondent, who will have to hold the enquiry with regard to the petitioner's application seeking for renewal of his passport. In the typed set of papers filed along with this Writ Petition, the explanation submitted by the petitioner to the respondents with regard to the criminal cases pending against him, is not available and hence, the petitioner is directed to submit a fresh explanation to the respondents.

8. For the foregoing reasons, this Court directs the petitioner to submit his explanation to the respondents with regard to the adverse report received by the respondents from the police authorities with regard to the criminal cases and court cases pending against him within a period of one week from the date of receipt of a copy of this order and on receipt of the said explanation, the second respondent shall pass final orders on the petitioner's application dated 22.10.2021 seeking for renewal of his passport on merits and in accordance with law after affording a fair hearing to the petitioner including granting him the right of personal hearing. The petitioner is also granted liberty to produce necessary documentary evidence to substantiate his claim for renewal of his passport with the second respondent. The second respondent is directed to pass final orders on receipt of the explanation as stated supra within a period of four weeks thereafter.

9. With the aforesaid directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

bga



To

1. The Regional Passport Officer/Passport Authority,
Royala Towers IV Floor
Old No. 785, New No.158, Anna Salai
Chennai 600 002.

2. The Consulator,
Embassy of India,
Lisbon, Rua Paro Da Covilha,
No.16, 1400-297, Lisbob, Portugal

+1cc to Mr.B.Ramprabu, Advocate, S.R.No.32792

+1cc to M/s.K.Thilageswaran, Advocate, S.R.No.33275

W.P.No.6482 of 2022

SVI (CO)
RLP (15/06/2022)