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W.P.No.14437 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.14437 of 2020
and
W.M.P.Nos.17925 & 17926 of 2020

K.Venkatesh

...

Petitioner

Vs

The Government of India,
Ministry of External Affairs,
Rep. By its Regional Passport Officer,
Regional Passport Office,
Royala Towers 2 & 3, 4th Floor,
New No.158, Anna Salai,
Chennai – 600 002.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order dated 22.03.2016 in Letter Ref.No./SCN/303790481/16 of the respondent and quash the same and consequently direct the respondent to re-issue in the passport bearing No.M4345988 under ECNR category to the petitioner.

For Petitioner : Mr.G.Mohana Krishnan
For Respondent : Mr.K.Subbu Ranga Bharathi
Central Govt. Standing Counsel



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ORDER

WEB COPY The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records relating to the order dated 22.03.2016 in Letter Ref.No./SCN/303790481/16 of the respondent and quash the same and consequently direct the respondent to re-issue in the passport bearing No.M4345988 under ECNR category to the petitioner.

2. The petitioner is a passport holder in Passport No.M4345988 which expired sometime in 2016, therefore the petitioner wanted to renew the same and for the said purpose, when the petitioner made application to the respondent, the respondent by communication dated 22.03.2016 had stated that, as per the report received from the Superintendent of Police, YSR District, Kadappa, there were 25 criminal cases pending against the petitioner and therefore, in order to give explanation to the respondent in respect of those alleged pendency of the criminal cases against the petitioner, 15 days time was given to the petitioner. Only in that circumstances, the said communication dated 22.03.2016 is under challenge before this Court in this writ petition with the aforestated prayer.



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3. Today when the case is taken up for hearing, Mr.G.Mohana Krishnan, learned counsel appearing for the petitioner would submit that, already there has been a report stating by the concerned Superintendent of Police of the District where only few cases are pending against the petitioner. In respect of those cases, some of them the petitioner got acquittal and remaining few cases even though it is pending before the trial Court in respect of those cases, the petitioner is ready and willing to get NOC from the concerned Court where the cases are posted for trial and based on which, let the application of the petitioner be considered and orders can be passed on merits by the respondent, he contended.

4. However, Mr.K.Subbu Ranga Bharathi, learned Central Government Standing Counsel appearing for the respondent relying upon the averments made in the counter affidavit as well as by relying upon the communication dated 22.01.2015 has submitted that, there are 6 cases pending still against the petitioner and a list of such cases as provided by the Commissioner of Police, Chennai Police, Vepery, Chennai has also been given, accordingly cases are pending in J.M. II Court, Ponneri, Principal Sessions Court, Thiruvallur and J.M. II Court, Ponneri. Insofar as the J.M.II



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Court, Ponneri, 4 cases are pending. Before the Principal Sessions Court, Thiruvallur, 2 cases are pending. Therefore, by citing these pendency of the cases, the learned Standing Counsel for the respondent would submit that, unless these cases are disposed where the petitioner is able to register acquittal, the application of the petitioner cannot be reconsidered, hence the learned Standing Counsel for the respondent seeks dismissal of this writ petition.

5. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

6. Insofar as the 6 cases mentioned by the communication of the Commissioner of Police, Chennai dated 22.01.2015 is concerned, the learned counsel appearing for the petitioner would submit that, 3 out of 6 cases, the petitioner already registered acquittal and the copy of the order produced before the respondent. Insofar as the remaining 3 cases is concerned, in respect of 1 case of M-4 Redhills Police Station in Crime No.61/2006 is concerned, even though it was claimed that charge sheet has been filed, so far no charge sheet has been filed in the said Court.



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7. However, the report of the Commissioner says that investigation was over and charge sheet was filed in that cases but the same so far has not been taken on file.

8. Since that position was prevailing sometime in 2015, by this time definitely the Magistrate Court would have taken the said charge sheet on file, therefore that case also can be treated only as a pending case.

9. Apart from the said case, the case in Crime No.120/2011 also pending before the same Court where in one case the charge sheet has been taken on file and in another case charge sheet has yet to be taken as on 22.01.2015.

10. Therefore, it has become a fact that atleast in 3 Courts cases are still pending against the petitioner where what is the stage of the trial is not known.

11. In view of the aforestated, unless the petitioner either getting acquittal in these cases are getting a NOC from the trial Court Judges and



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the same is produced before the respondent, the respondent may not be in a position to consider the application of the petitioner for renewing his passport.

12. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

(i) That it is for the petitioner to get NOC from the concerned Court in respect of the cases still pending against the petitioner as referred to above and produce the same before the respondent along with the fresh application to be submitted in this regard by the petitioner for seeking renewal of his passport.

(ii) Once such application is filed by the petitioner, the same shall be considered by the respondent and may be decided on merits and in accordance with law within a period of four weeks from the date of receipt of such application along with NOC from the concerned Magistrate Court in respect of the three pending cases.



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13. With these directions, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking Order: Yes / No

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To

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R. SURESH KUMAR, J.

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