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W.P.No.18896 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.11.2022**

CORAM :

THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**

W.P.No.18896 of 2022

Balaji Haridurai

... Petitioner

-Vs-

The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Regional Passport Office,
Rayala Towers II & III,
Old No.785, New No.158,
Anna Salai,
Chennai – 600 002.

... Respondent

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to consider petitioner's application dated 21.02.2022 pending in respondent's File No.MA51C5012524122 to renew/re-issue the Passport No.Z-2393917 for a period of ten years within the time stipulated by this Court.

For Petitioner : Mr.E.Udayachander

For Respondent : Mr.R.Subramanian
Additional Central Government
Standing Counsel



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ORDER

WEB COPY The prayer sought for herein is for a Writ of Mandamus, to consider petitioner's application dated 21.02.2022 pending in respondent's File No.MA51C5012524122 to renew/re-issue the Passport No.Z-2393917 for a period of ten years within the time stipulated by this Court.

2.The petitioner is already having an Indian Passport and since the same expired, the petitioner wanted to renew the same, for which, he had given an application on 21.02.2022 to the respondent and the said application since has not been processed, he has approached this Court by filing the present writ petition.

3.Heard Mr.E.Udayachander, learned counsel appearing for the petitioner who would submit that there was a criminal case pending against the petitioner in Crime No.50 of 2014 on the file of the Thirukovilur All Women Police Station for the offences punishable under Sections 498(A), 294(b) and 342 of the Indian Penal Code. The said reason has been cited by the respondent for not considering the application of the petitioner for renewing the passport.



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4. In this context, the learned counsel appearing for the petitioner would submit that mere pending of the criminal case will not stand in the way for considering the application submitted by the petitioner to issue the passport or renewal of passport. However, now citing the same reason, since the passport application for renewal has not been processed by the respondent, it is bad in law. Therefore, he seeks indulgence of this Court.

5. Mr. R. Subramanian, learned Additional Central Government Standing Counsel appearing for the respondent has relied upon the following averments made in paragraph Nos. 8 and 12 of the counter affidavit:

*“8. It is respectfully submitted that the petitioner has sent a letter dated 22/03/2022 in response to Show Cause Notice No. SCN/312319059/22 received by this office on 23/03/2022. In the reply, the petitioner stated that charge sheet was filed and the case was transferred to the Judicial Magistrate Court, Thirukoilur with case No. CMP 4633/2018 and the **case is pending trial**. The petitioner also furnished an undertaking in writing as per provisions of GSR 570 (E) dated 25/08/1993. However, the response did not include permission order from the concerned court for issuance of passport/travel abroad.*



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.....
12. It is respectfully submitted that a letter No.CNO/313054543/22 dated 28/07/2022 has been sent to the petitioner in terms of instructions contained in Gazette notification vide G.S.R 570(E) dated 25.08.1993, if the petitioner furnishes NOC/permission order to reissue Passport/to travel abroad from the concerned court along with undertaking as per G.S.R 570 (E), this respondent office will take appropriate action in accordance with the Passports Act, 1967.”

6.By relying upon these averments, the learned Additional Central Government Standing Counsel would submit that, as per G.S.R 570 (E), if any criminal case is pending, where charge sheet is already filed before the Court concerned, the party, who is accused in such case has to get No Objection Certificate from the said Court, as to the approval of the party concerned for getting passport or renewal of the passport to go abroad and based on such No Objection Certificate to be issued by the concerned Magisterial Court, where the case of the party is pending, the application submitted by the party would be considered in accordance with the provisions of the Passports Act, 1967.



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WEB COPY 7. I have considered the said submissions made by the counsel for both parties and perused the materials placed before this Court.

8. As has been rightly pointed out by the learned Additional Central Government Standing Counsel appearing for the respondent, since there has been a criminal case pending and where charge sheet has been filed before the concerned Magisterial Court and the case may be taken up for trial at any time and this will be known to the concerned Magistrate, as to the calendar of cases which has been fixed for trial, that is the reasons why such kind of No Objection Certificate is required under G.S.R 570 (E) and once such No Objection Certificate is obtained by the party and produced before the Passport Officer, there would be no further impediment for the Passport Officer to consider the application and process the same for passing orders with regard to grant of passport or renewal of passport as the case may be in accordance with law.

9. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following order:



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- ◆ That it is open to the petitioner to get No Objection Certificate from the concerned Magisterial Court, where the criminal case against him is pending and produce the same before the respondent within a period of thirty days from the date of receipt of a copy of this order.
- ◆ If such No Objection Certificate is produced, there shall be a direction to the respondent to process the application of the petitioner and pass orders thereon on merits and in accordance with law, especially under the provisions of the Passport Act, 1967 within a period of thirty days thereafter.
- ◆ If no such No Objection Certificate is produced, the application can be disposed of in accordance with law.

10. With these directions, the Writ Petition is disposed of. No costs.

Index : Yes/No

Internet: Yes/No

sp/drm

Note: Issue order copy on 08.11.2022

02.11.2022



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To

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R.SURESH KUMAR.J.,

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