



W.P.No.27408 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.27408 of 2022

Akhilesh Rajan Nair

.... Petitioner

-Vs-

- 1 The Union of India
Represented by its under secretary to
Government Ministry of Home Affairs GRIH
mantralaya 2nd Floor Major Dhyan chand
National Stadium India Gate, New Delhi.
- 2 The Secretary to Government
Home Department ecretariat Fort St George
Chennai 600 009
- 3 The District Collector
chennai Collectorate officer singaravelar
maligai 62 first Line Beach Chennai

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus for a Direction to forward the application of the petitioner dated 10.10.2019 under section 5(1)(f) of the citizenship Act 1955 to the 1st respondent for consideration and appropriate decision thereon within a time frame to be fixed by this honble court.

For Petitioner : Mr.Govind Chandrasekhar
For Respondents : Mr.K.S.Jeyaganesan
Sr.Panel Counsel – for R1
Mr.L.S.M.Hasan Fizal
Additional Government Pleader-for RR 2 & 3



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ORDER

The prayer sought for herein is for a Writ of Mandamus for a direction to forward the application of the petitioner dated 10.10.2019 under section 5(1)(f) of the citizenship Act 1955 to the 1st respondent for consideration and appropriate decision thereon within a time frame to be fixed by this honble court.

2. The petitioner's parents were Indian Citizens and long years back they shifted to Singapore, where they settled for some time. The petitioner was born in the year 2002 at Singapore and after 3 ½ years of the birth of the petitioner, his father died and therefore, the petitioner along with his mother came to India long back and settled in India.

3. In this context, the petitioner had already, in order to get citizenship from this Country, has made an application under Section 3(1)(g) of the Citizenship Act, 1955, which was considered and rejected by the first respondent, through their communication dated 11.07.2019, where inter alia the first respondent stated the following :

" I am directed to refer to the State Government's letter No.189 dated 03.04.2019 on the above subject and to say that Shri Akhilesh Rajan Nair, a Singapore National is an OCI



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Cardholder bearing No.A3114492 issued on 11/05/2018 and he had applied online citizenship application on 31.03.2017 for grant of Indian Citizenship. As per the Citizenship Act, 1955 he has not been registered for five years period as OCI Card holder as required under the provisions of Section 5(1)(g). As per Section 5(1)(g) of the Citizenship Act, 1955 " a person of full age and capacity who has been registered as an (Overseas Citizen of India Card Holder) for five years, and who is ordinarily residing in India for one year immediately before making an application for registration.". The applicant does not fulfill the above condition in this case."

4. It is further stated in the order that the petitioner can make a fresh application under Section 5(1)(f) based on her mother's earlier citizenship if documents are made available by the applicant, ie., the petitioner. Pursuant to which, the petitioner made a further application on 10.10.2019 in prescribed format ie., Form VI under Rule 8(1)(a) of the Citizenship Rules, 2009 and that application has to be routed through the third respondent and second respondent to the first respondent. Though the said application was filed as early as in October 2019 ie., three years back, the same has not been processed and forwarded by the third respondent to the second respondent and the first respondent. Therefore, the petitioner has moved the present writ petition.



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5. Heard Mr.Sharath Chandran, learned counsel for the petitioner, Mr.K.S.Jeyaganesan learned Senior Panel Counsel for the first respondent and Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for the second and third respondents.

6. Learned Government Pleader appearing for the second and third respondents would submit that, the application submitted by the petitioner has to be processed by the third respondent District Collector by sending it to the Tahsildar concerned to have a spot enquiry in the locality and based on his report to be submitted in this regard, further course of action would be taken. He would forward the same with his recommendation to the second respondent, who in turn with his comments either recommending or otherwise, forward the application to the first respondent for ultimate decision. Therefore, it will take a reasonable time. Hence, the learned Government Pleader submits that at least 12 weeks time would be required to process the application to the first respondent.

7. Learned counsel for the first respondent would submit that in the earlier rejection order dated 11.07.2019 itself, though the application of the petitioner submitted under Section 5(1)(g) was rejected, it was informed that the applicant can submit an application afresh under Section 5(1)(f) of the Act. Therefore, if



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at all the application is submitted, where documentary evidences are annexed with the application to substantiate that the petitioner is entitled for citizenship, the first respondent would, based on the recommendation made by the second respondent and third respondent, take suitable action and appropriate orders would be passed thereon on merits and in accordance with law within a time frame that may be stipulated by this Court.

8. Having heard the said submission made by the learned counsel for the parties and after having gone through the factual matrix of the case, where the application submitted by the petitioner under Section 5(1)(f) of the Act still is pending for the past three years with the second respondent and third respondent, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the third respondent to immediately process the application of the petitioner dated 10.10.2019 and forward the same to the second respondent within a period of four weeks from the date of receipt of a copy of this order.
- On receipt of the same, the second respondent, after considering the same, shall forward the same with or without his recommendation to the first respondent thereafter within a period of four weeks.



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- On receipt of the application with or without the recommendation from the second respondent, the first respondent shall process the application in accordance with law especially under the provisions of the Citizenship Act, 1955 and the Rules made thereunder and pass final orders on the application of the petitioner, after giving an opportunity of being heard to the petitioner if that need arises, within a period of six weeks thereafter.

9. With the above directions, this writ petition is disposed of. No costs.

14.10.2022

Index : Yes/No
Internet : Yes/No
KST
To

- 1 The Under Secretary to Government
Ministry of Home Affairs GRIH Mantralaya
2nd Floor Major Dhyani Chand National Stadium
India Gate, New Delhi.
- 2 The Secretary to Government
Home Department Secretariat Fort St George
Chennai 600 009
- 3 The District Collector
Chennai Collectorate Office, Singaravelar
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R. SURESH KUMAR, J.

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