



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.35655 of 2019

B.Robert Payas

.. Petitioner

Versus

Union of India
Rep by the Secretary
Ministry of External Affairs
Government of India
Jawaharlar Nehru Bhawan
23-D, Janpath
New Delhi - 110 011

.. Respondents

Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, directing the respondent to grant VISA to petitioner's wife Mrs.R.Prema, W/o. Mr.Robert Payas.

For Petitioner : Mr.S.Saravanan

For Respondent : Mr.J.Madhana Gopal Rao
Central Government Standing Counsel

O R D E R

The writ petition has been filed seeking direction to the respondent to grant VISA to petitioner's wife Mrs.R.Prema, W/o. Mr.Robert Payas.

2. The facts of the case are as follows:

The petitioner was arrested on 10.06.1991 in connection with Rajiv Gandhi Assassination Case and sentenced to death penalty along with all 25 accused who faced trial. Apart from the common charge, he was convicted under Section 3(3) of TADA Act individually and sentenced to life imprisonment. The Hon'ble Apex Court, on 11.05.1999, in Death Reference Case No.1 of 1998 with C.A.No.323/1998 acquitted the petitioner from all charges under TADA Act and confirmed his conviction only under Section 120-B read with 302 IPC and altered his death penalty to life imprisonment. The petitioner sent representation premature release under Article 161 of the Constitution of India and the same was recommended by the State Council of Ministers on



09.09.2018 and the said representation is pending before the Excellency Hon'ble Governor of Tamil Nadu. The petitioner has been in prison from 16.08.1991 and now he has completed more than 28 years of actual imprisonment.

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3. The further case of the petitioner is that when he came down to India along with his wife during the year 1990, she gave birth to one male child on 06.02.1991. After the petitioner's arrest, his wife and son returned back to Srilanka in the year 1993 and they were living in Sri Lanka till 2010. Thereafter, they again came down to India as Refugee for the period from 09.02.2010 to 08.05.2010. On 22.08.2010, the petitioner's wife and his son left India with proper permission. On 22.11.2018, the petitioner's wife applied for Visa to visit India at Indian Consulate Office at Jaffna and the same was rejected by the officials on the ground that on earlier stay of the petitioner's wife and son, some criminal records were found against her. But there is no written communication was given to the petitioner's wife in this regard. Hence, the petitioner's wife made an application to the Indian Embassy at Nallur, Jaffna requesting to grant Visa to her. Till date no action was taken and the same is pending. Hence, the present writ petition has been filed before this Court seeking appropriate remedy.

4. The learned counsel for the petitioner submitted that there was no criminal records found against the petitioner's wife. The authorities were not correct in rejecting the petitioner's wife visa and therefore, he prayed that this Court may direct the respondent to grant visa to the petitioner's wife within the stipulated time as fixed by this Court.

5. The learned Central Government Standing Counsel appearing on behalf of the respondent submitted have no serious objection for the submission of the learned counsel for the petitioner and he will consider the application made by the petitioner within the stipulated time as fixed by this Court.

6. Heard the learned counsel appearing on behalf of the petitioner and the learned Central Government Standing Counsel appearing on behalf of the respondent and perused the materials available on record.

7. Considering the facts and circumstances of the case and the submission made on either side, this Court directs the respondent to consider the representation of the petitioner's wife and take necessary action in this regard within a period of six weeks from the date of receipt of a copy of this order.



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8. Accordingly, the writ petition stands disposed of with the above terms. No costs.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

rli

To
Ministry of External Affairs
Government of India
Jawaharlal Nehru Bhawan
23-D, Janpath
New Delhi - 110 011

W.P.No.35655 of 2019

KG (CO)
GMY (02/03/2022)