



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2022

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THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.2777 of 2022

M.Tharun Babujee

... Petitioner

vs.

1.The Regional Passport Officer,
Municipal Water Tank Building,
W.B. Road, Trichirapalli-620 008.

2.The Inspector of Police,
Ammamet Police Station, Thanjavur District. ... Respondents

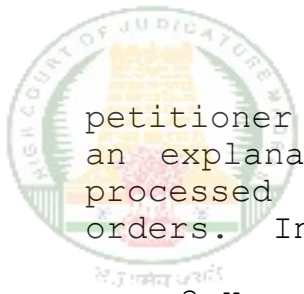
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the first respondent to issue a passport to the petitioner on the basis of his passport application file number TR1063829871321 dated 23.12.2021 by considering the petitioner's explanation dated 17.01.2022 and in the light of the reported Judgment in 2014-2-CWC-684.

For Petitioner:Mr.S.Venkatesan
For R1 :Mrs.L.Victoria Gowri
Assistant Solicitor General of India
For R2 :Mr.M.Lingadurai
Special Government Pleader

O R D E R

This Writ Petition has been filed for a Mandamus seeking for a direction to the first respondent to issue a passport to the petitioner on the basis of his passport application file number TR1063829871321 dated 23.12.2021 by considering the petitioner's explanation dated 17.01.2022 and in the light of the reported Judgment in 2014-2-CWC-684 within a time frame to be fixed by this Court.

2.The petitioner has applied for passport with the first respondent. Due to the pendency of an FIR in Cr.No.788 of 2021 registered against the petitioner, the first respondent has not processed the petitioner's application. The first respondent has issued the show cause notice to the petitioner on 12.01.2022 calling for an explanation from the petitioner with regard to the registration of FIR in Cr.No.788 of 2021. Thereafter, the



petitioner has also submitted an explanation on 17.01.2022. Though an explanation has been submitted, the first respondent has not processed the petitioner's passport application and passed final orders. In such circumstances, this Writ Petition has been filed.

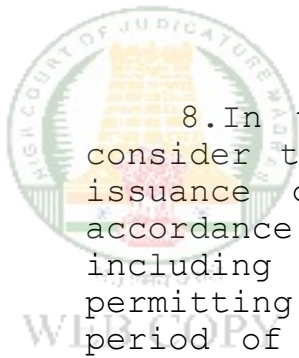
3.Heard Mr.S.Venkatesan, learned Counsel for the petitioner, Mrs.L.Victoria Gowri, Assistant Solicitor General appearing for the first respondent and Mr.L.Linga Durai, learned Special Government Pleader for the second respondent.

4.The learned Special Government Pleader appearing for the second respondent would submit that though a charge sheet has been filed before the concerned Judicial Magistrate Court, the same is yet to be taken cognisance by the concerned Court. The same is recorded.

5.The learned Counsel for the petitioner drew the attention of this Court to a judgment of learned Single Judge of this Court, dated 27.06.2014 passed in W.P.(MD)Nos.8343 to 8350 of 2014 and in particular, he referred to one of the paragraphs in the said judgment, wherein, it has been observed that the judicial act commences only when the charge sheet is in order and the Magistrate proceeds further under Chapter XVI. Unless the charge sheet is in the official custody of the Court together with its accompaniments to be furnished to the accused, it cannot be construed that charges sheet has been filed.

6.After referring to the aforementioned observations in the said judgment, the learned Counsel for the petitioner would submit that it is settled law that mere filing of charge sheet by the police before the concerned Court cannot be construed that charge sheet has been filed in accordance with the Criminal Procedure code. Hence, he would submit that there is no prohibition for the first respondent to process the petitioner's passport application.

7.This Court after giving due consideration to the submission made by the learned Counsel for the petitioner, which is also not opposed by the learned Additional Government Pleader, is inclined to give a direction to the first respondent to process the petitioner's passport application on merits and in accordance with law after affording a fair hearing to the petitioner. The petitioner has already submitted an explanation to the impugned communication of the first respondent with regard to the registration of FIR against him in Cr.No.788 of 2021, in which he pleaded innocent. It is for the first respondent to give due consideration to the same and thereafter decide as to whether the passport can be issued to the petitioner or not. No prejudice will be caused to the respondents, if the petitioner's application seeking for issuance of passport is considered on merits and in accordance with law.



8.In the result, this Court directs the first respondent to consider the petitioner's application dated 23.12.2020 seeking for issuance of passport and pass final orders on merits and in accordance with law after affording a fair hearing to the petitioner including granting him the right of personal hearing and also permitting him to file documents in support of his case within a period of six weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1 The Regional Passport Officer,
Municipal Water Tank Building,
W.B. Road, Trichirapalli-620 008.

2 The Inspector of Police,
Ammamet Police Station, Thanjavur District.

+1 CC to M/s.S.VENKATESAN, Advocate (SR-12292[F] dated 15/03/2022)
+1 CC to M/s.SPL GP (SR-12488[F] dated 16/03/2022)

Order made in
W.P. (MD)No.2777 of 2022
15.03.2022
(2/2)

CMR

MS/24.03.2022/3P.5C