



W.P.(MD)No.3512 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3512 of 2022

Nalini

... Petitioner

Vs

The Regional Passport Officer,
Regional Passport Office,
Municipal Water Tank Building,
W.B.Road,
Tiruchirappalli – 620 008.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in Letter Ref.No.OBJ/310976805/21 dated 28.06.2021 on the file of the respondent and quash the same and direct the respondent to issue passport for the petitioner by considering petitioner's representation, dated 21.07.2021.

For Petitioner : Mr.I.Romeo Roy Alfred

For Respondent : Mrs.L.Victoria Gowri
Assistant Solicitor General of India



W.P.(MD)No.3512 of 2022

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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Assistant Solicitor General of India appearing for the respondent.

2.The writ petitioner's parents are Srilankan nationals. On account of the anti-Tamil 1983 riots, they came down to India and were housed in Mandapam Refugee Camp. The petitioner was born therein on 21.04.1986. The petitioner approached the respondent for issuance of passport. The respondent took the stand that since the petitioner's nationality is doubtful, she cannot be issued with Indian passport. Questioning the same, this writ petition has been filed.

3.The learned counsel appearing for the writ petitioner took me through the averments set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned order and direct the respondent to issue passport to the petitioner.

4.The respondent filed a detailed counter affidavit and the learned Assistant Solicitor General of India took me through its contents. The primary



W.P.(MD)No.3512 of 2022

stand of the respondent is that admittedly the petitioner was born to Srilankan nationals and that even as on date she resides in the Refugee Camp, Kottapattu in Trichy. Unless the petitioner's citizenship is declared, the passport cannot be issued to the petitioner.

5.I carefully considered the rival contentions and went through the materials on record. Part II of the Constitution deals with citizenship. Article 11 empowers the parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship. The parliament enacted The Citizenship Act, 1955. Section 3 (1) (a) of the Act states that every person born in India on or after 25.01.1950 and before first day of July 1987 shall be a citizen of India by birth. Schedule I is appended to the said Act. Rules have also been subsequently framed. The various forms providing for application for registration as citizen do not cover citizenship by birth. In other words, a person claiming to be a citizen by birth does not have to apply to the authority for recognition or declaration. As per Section 13 of the Act, in cases of doubt, the Central Government may certify that the person concerned is an Indian Citizen.



W.P.(MD)No.3512 of 2022

6. In the case on hand, there is no scope for any doubt. The petitioner has enclosed the birth certificate issued by the competent authority. Its genuineness is not doubted. The learned counsel appearing for the petitioner drew my attention to the decision of the Hon'ble High Court of Delhi made in ***W.P(C)12179 of 2009 (Namgyal Dolkar Vs Government of India) dated 22.12.2010.*** In the said case, the petitioner was born in India on 13.04.1986. The Hon'ble High Court of Delhi held that she is an Indian Citizen by birth in terms of Section 3(1)(a) of Citizenship Act, 1955 and that she cannot be denied passport. The case on hand is absolutely similar. Since the petitioner is an Indian citizen by birth, she need not apply for citizenship. It is not the case of the respondent that the petitioner had renounced her Indian citizenship.

7. The impugned communication is set aside. This writ petition is allowed. The respondent is directed to issue passport to the writ petitioner subject the fulfillments of the other usual formalities. No costs.

12.08.2022

Index : Yes / No
Internet : Yes/ No
mga/skm



W.P.(MD)No.3512 of 2022

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To

The Regional Passport Officer,Regional Passport Office,
Municipal Water Tank Building, W.B.Road, Tiruchirappalli – 620 008.



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W.P.(MD)No.3512 of 2022

G.R.SWAMINATHAN, J.

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W.P.(MD)No.3512 of 2022

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