



W.P(MD)No.23364 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23364 of 2022

and

W.M.P(MD)Nos.17437 & 17438 of 2022

G.Thulasi Moni

..Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office,
Race Course Road,
Madurai-02.

2.The Passport Granting/Issuing Officer,
Passport Seva Kendra,
Bye Pass Road,
Xavier Colony,
Tirunelveli-627 005.

3.Mr.S.Murugeson

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Letter Ref.No.SCN/313314119/2022, dated 14.09.2022 on the file of the Respondent No.1 and quash the same as illegal and consequently to issue a direction directing the Repondents Nos.1 & 2 to re-issue the passport to the petitioner's minor son namely M.Siva Viknesh Murugeson, aged about 18 years for the



W.P(MD)No.23364 of 2022

purpose of studying in MBBS Course will be commence on 15.10.2022 at Republic of Moldova Country by indicating the petitioner/Mother as the single parent of the child.

For Petitioner :Mr.I.Penaygash
For R1 & R2 :Mrs.L.Victoria Gowri
Assistant Solicitor General

ORDER

The petitioner has filed the Writ Petition seeking issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Letter Ref.No.SCN/313314119/2022, dated 14.09.2022 on the file of the Respondent No.1 and quash the same as illegal and consequently to issue a direction directing the Repondents Nos.1 & 2 to re-issue the passport to the petitioner's minor son namely M.Siva Viknesh Murugeson, aged about 18 years for the purpose of studying in MBBS Course will be commence on 15.10.2022 at Republic of Moldova Country by indicating the petitioner/Mother as the single parent of the child.

2. The petitioner on behalf of his son M.Siva Viknesh Murugeson, aged about 18 years has filed the present writ petition seeking the above said prayer. The petitioner is the single parent of the child. The learned counsel appearing for the petitioner would submit that the petitioner and her husband got married



W.P(MD)No.23364 of 2022

on 04.02.2002 and out of the wedlock, they blessed with 2 children namely M.Siva Viknesh on 23.01.2005 and M.Reashmi Devi on 14.03.2009. Both parties were not living happily from the day one of marriage and the third respondent and his family members demanded additional dowry and subjected to cruelty made against him. Due to which, there was a difference of opinion between the husband and wife. Hence, the petitioner filed a divorce petition in HMOP No.11 of 2019 before the Sub-Judge, Eraniel, Kanyakumari District for granting divorce and the same is pending. Both the children are in the custody of the petitioner. The petitioner is solely responsible for them and she was deserted by her husband for the past 4 years. While being so, her minor son namely M.Siva Viknesh has completed 12th standard and he eagerly awaiting for doing his higher studies in MBBS course at abroad. Hence, he applied for MBBS course at Nicole Testeminanu State University of Medical and Pharmacy of the Republic of Moldova Country. On 16.09.2022 the said University has sent an acceptance letter for his eligible to participate in admission contest to 6 years M.D study (undergraduate course in Medicine) which commences from 15.10.2022. Therefore, on 25.08.2022, the petitioner has applied re-issue of his son's passport to go abroad for doing his MBBS course. Earlier, he had minor passport and the same has been expired. Because of divorce case is pending between the petitioner and her husband, she duly produced an undertaking



W.P(MD)No.23364 of 2022

affidavit that she is solely responsible for her son and seeking to re-issue of passport to her son. On 14.09.2022 the first respondent passed the Impugned Order of communication to him by stating the following averments:-

“2. You are furnished Annexure-c column No.II-d tick mark available there is ongoing court case for divorce. Since case is pending. 3. Please furnish court permission for issue of passport to the applicant (or) Annexure -d signed by both parents. You are required to produce proper clarification/explanation for the same, without which the requested service cannot be provided to you”.

3. He would further submit that the impugned order passed by the first respondent is unsustainable one. Because she had filed divorce case in HMOP No.11 of 2019 against her husband on 2019 itself and still which is pending before Sub-Court, Eraniel and she deserted her husband for the past 4 years. Therefore, she is only taking care of her two children, and hence, she could not get signature from her husband as she did not correspond with her and the children for the past 4 years. Since her son was getting acceptance letter for eligible to participate in admission contest to 6 years which is commences from 15.10.2022. Because of the insistence of the first respondent to put signature by both parents on the passport re-issue application of her son, he may loose his



W.P(MD)No.23364 of 2022

valuable opportunity to join in MBBS course at Moldova Country and if he is not permitted to go abroad and join on or before 15.10.2022 he will be losing his education, career and ambition. She would further submit that they already sought for extension of time from the above said University for joining the course due to non-issuance of passport and the said University has given extension of time till 21.10.2022. As her request was not considered. Hence, she has constrained to file this writ petition for issuance of passport.

4. The learned Assistant Solicitor General appearing for the respondents would submit that as per the procedure, only after getting the permission from the Court, they can issue such passport and no divorce has been granted, even though they are living separately and hence, the authorities can insist on to get the signature from her husband.

5. When the matter was taken up for hearing on 11.01.2022, this Court ordered notice to the third respondent through Court and privately and the same was returned as 'left'. As his whereabouts are not known to the petitioner, the notice issued to the last known address would be sufficient.

6. This Court is inclined to consider the petitioner's case only on the



W.P(MD)No.23364 of 2022

ground that the minor son's mother is seeking indulgence of this Court only for betterment of the child and she will be held responsible for his acts. The dispute regarding the difference of opinion between the husband and wife solely put on the shoulder of the mother who had to take care of her children.

7. Considering the above facts and circumstances of the case and also considering the better future of the petitioner's son and also the College has already been started on 15.10.2022 and in view of the fact that the petitioner has sought for some more time for joining the college till 21.10.2022, the impugned order of the first respondent dated 14.09.2022 in Ref.No.SCN/313314119/22 is set aside and the respondents authorities are hereby directed to issue the passport to the petitioner's son for going to the Moldova Country for educational purpose only within a period of one week.

8. Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes/No

Internet :Yes/No

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18.10.2022

Note: Issue Order copy on 19.10.2022



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W.P(MD)No.23364 of 2022

To

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W.P(MD)No.23364 of 2022

V.BHAVANI SUBBAROYAN, J.

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