



WP(MD)No.23713 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP(MD).No.23713 of 2022

and WMP(MD) Nos.17790 and 17792 of 2022

T.Suganthan

: Petitioner

Vs

- 1.The State of Tamil Nadu
rep. by Secretary to Government
Public (foreigners-II) Department
Secretariat,
Chennai 9
- 2.The District Collector cum Camp Officer,
Special Camp for foreigners
Central Prison Campus,
Tiruchirappalli.
- 3.The Commissioner,
Department of Rehabilitation,
Ezhilagam, Chepauk,
Chennai 600 005.
- 4.The Superintendent of Police,
'Q' Branch CID
DGP Office Complex,
Chennai 600 004.



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5.The Special Deputy Collector
Refugee Camp, Kottapattu
Tiruchirappalli

6.The Inspector of Police,
Q-BRanch police Station,
Coimbatore City
Coimbatore.

7.The Sub Inspector of Police,
Q – Branch CID
Kanyakumari

: 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 in connection with the impugned order in G.O.(1D) No.101 dated 14.03.2022 passed by the 1st respondent and quash the same and thus direct the respondents to release the petitioner from the special camp for foreigners at Tiruchirappalli.

For Petitioner : Mr.Romeo Roy Alfred

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor



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ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

On a concurrence given by either side, the main writ petition itself is taken up for final hearing.

2.The subject matter of challenge in the present writ petition is the impugned proceedings of the first respondent in G.O.(1D) No.101 dated 14.03.2022, whereby the petitioner has been directed to reside in the special camp identified and located by the District Collector at Trichy.

3.The case of the petitioner is that his parents are of Indian origin and they were living at Srilanka and they also got married in Srilanka in the year 1983. Thereafter, due to the ethnic riots, the Tamil population of Srilanka has to seek asylum in India in the year 1985. In view of the same, the parents of the petitioner came over to Rameshwaram and they were subsequently shifted to the camp at Chengalpattu.



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4. The petitioner was born on 27.02.1987 at Chengalpattu District. The family of the petitioner was shifted thereafter to the Koodal Nagar Camp at Madurai and the petitioner underwent his education at Madurai. The birth certificate of the petitioner and also the Aadhar Card that has been given in favour of the petitioner has been produced before this Court to substantiate that the petitioner is an Indian citizen.

5. The grievance of the petitioner is that the first respondent, through the impugned Government order, has directed the petitioner to reside in the special camp at Trichy and the said Government order is illegal, since the petitioner cannot be treated as a foreigner and he will not come within the definition of a foreigner under the Foreigners Act 1946. In view of the impugned Government order, the petitioner alleges that his movement has been restricted and his right as a citizen of India has been affected. In view of the same, the present writ petition has been filed before this Court challenging the impugned Government order issued by the first respondent.

6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.



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7. The learned Additional Public Prosecutor, on instructions, submitted that the criminal case came to be registered against the petitioner in Crime No.1/2021 by the Sub Inspector of Police, Q Branch CID, Kanyakumari. The petitioner was arrested in the course of investigation and the petitioner filed a petition seeking for grant of bail. The petition was heard by the learned Magistrate, Eraniel and bail was granted subject to certain conditions. One such condition that was imposed by the learned Magistrate was that the petitioner must be detained at the special camp for Foreigners at Trichy until further orders. The learned Additional Public Prosecutor submitted that it is pursuant to this direction issued by the learned Magistrate, Eraniel, the impugned Government order was passed by the first respondent. In other words, the impugned Government order passed by the first respondent was only a consequence of the condition imposed by the learned Magistrate, Eraniel, while granting bail to the petitioner.

8. The learned counsel for the petitioner submitted that such a condition was imposed since it was projected by the prosecution as if the petitioner is a foreigner/Srilankan national and the said stand taken by the prosecution goes completely against the records available. In view of the same, the learned



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counsel for the petitioner contended that the first respondent cannot take shelter under the condition imposed by the Court below. The learned counsel for the petitioner in order to substantiate his submissions also relied upon the earlier orders passed by this Court under similar circumstances in (i) Sasikumar @ Sasi v. State of Tamil Nadu and others in W.P.(MD) No.10080 of 2008 dated 25.08.2011 and (ii) Nalini v. The Regional Passport Officer, Trichy in W.P.(MD) No.3512 of 2022 dated 12.08.2022.

9. We have carefully considered the submissions made on either side and the materials available on record. The judgments that were relied upon by the learned counsel for the petitioner makes it abundantly clear that whoever fulfills the requirement under Section 3 of the Citizenship Act, shall be considered to be a citizen of India. With the available records, we are able to see that the petitioner was born at Chengalpattu on 27.02.1987 and the same is substantiated by the birth certificate issued by the concerned authority, which is found at Page No.31 of the typed set of papers. That apart, the Aadhar Card issued in the name of the petitioner has also been filed and the same is found in Page No.42 of the typed set of papers. The learned Additional Public Prosecutor submitted that these documents are not genuine



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and hence, the same cannot be relied upon by this Court. We do not want to get into the genuineness of the documents, considering the jurisdiction exercised by us and we are only taking note of the documents to come to a *prima facie* conclusion.

10. It is clear from the submission of the learned Additional Public Prosecutor that the Judicial Magistrate, Eraniel had come to a conclusion that the petitioner is a Srilankan national only based on the submission made by the prosecution to the effect that the petitioner is a foreign national/Srilankan national. The Court below did not have an opportunity to go through the documents that are relied upon by the petitioner to substantiate that he is an Indian citizen and the objection of the prosecution for relying upon those documents. The impugned Government order passed by the first respondent is a consequence of one of the condition imposed by the Court below while granting bail.

11. In view of the above circumstances, the petitioner has to necessarily approach the Judicial Magistrate, No.II, Eraniel and seek for modification of condition 7(b), which was imposed at the time of granting bail. While doing



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so, it will be left open to the petitioner to rely upon all the documents that have been placed before this Court and the prosecution can also take all the objections and the learned Magistrate shall deal with the same on its own merits and in accordance with law. Ultimately, based on the order passed by the Judicial Magistrate in the modification petition, further course of action can be taken. This clarity will sufficiently safeguard the interest of the petitioner as well as the prosecution.

12. This writ petition is disposed of with the above direction. Consequently connected Miscellaneous Petitions are closed.

[M.S.R.,J] [N.A.V.,J]
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Index : Yes / No
Internet : Yes
RR



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8. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.



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