



W.P(MD)No.18653 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.18653 of 2016

and

W.M.P(MD)Nos.13498 and 13499 of 2016

Christabel Malini Ramesh Babu

... Petitioner

Vs.

- 1.Union of India,
Rep by its Secretary,
Ministry of Home Affairs,
Jaisalmer House,
26, Mansingh Road,
New Delhi-110 011.
- 2.State of Tamil Nadu,
Rep by its Principal Secretary,
Department of Home,
Secretariat,
Fort St.George,
Chennai-9.
- 3.The District Collector,
Kanyakumari District,
Kanyakumari.



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4.The Superintendent of Police,
O/o. Superintendent of Police,
Kanyakumari District.

... 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 Roc.C4/9021/2009 6on the file of the Respondent No.3 dated 28.01.2016 and quash the same as illegal and consequently for a direction, directing the Respondents to consider the petitioner's application dated 19.03.2013 without insisting for valid residential permit and valid passport and dispose of the same in accordance with the Rule 12 of the Citizenship Rules, 2009 within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Ragaventhre
for R1
Mr.P.Thambidurai
Government Advocate
for R2 to R4

ORDER

This present writ petition has been filed seeking to quash the order passed by the third respondent herein. Under which, the request of the petitioner for forwarding her application for citizenship, has been

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rejected on the ground that the petitioner does not have a valid passport and a valid residential permit.

2.According to the writ petitioner, she is a Srilankan citizen and she is holding Srilankan passport. She got married to an Indian citizen in London and thereafter, she entered the Indian territory under the Tourist Visa along with her husband. From the year 1983 onwards, she is permanant resident of India. Her Srilankan passport got expired in the year 2013.

3.According to the petitioner, she could not renew her foreign passport and keep it validity, because, she could not extend the residential permit. The petitioner applied for the residential permit in time to the fourth respondent herein. The same was kept pending and the fourth respondent has not passed any orders. Hence, the petitioner had filed WP(MD)No.3846 of 2013 to direct the District Collector and the Superintendent of Police to renew her residential permit within a time frame. This Court has passed an order, on 16.04.2013, directing the



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second respondent to consider and dispose the application submitted by the petitioner, dated 25.05.2011, for renewal of residential permit on merits and as per law. Further, this Court has directed the Superintendent of Police, Kanyakumari, to complete the exercise within a period of 8 weeks from the date of receipt of a copy of the order.

4.The grievance of the writ petitioner is that despite a direction from this Court, the Superintendent of Police, Kanyakumari, has not yet passed any orders on her application for renewal of residential permit.

5.In view of the non-renewal of the residential permit, the petitioner is not able to renew her foreign passport.

6.According to the petitioner, as per the Rule 5 as per Form-3 in reference to Rule 5(1)(a) Citizenship Rules, 2009, the petitioner was expected to produce her valid foreign passport and valid residential permit and mandatory document at the time of applying for Indian Citizenship. In view of the above said facts, the petitioner is not in a



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position to produce either valid foreign passport or valid residential permit. Hence, the petitioner has filed present writ petition seeking writ of mandamus directing the respondents to consider the petitioner's application, dated 19.03.2013 without insisting for a valid residential permit or a valid foreign passport and dispose of the same in accordance with the Rule 12 of the Citizenship Rules, 2009 within the time period stipulated by this Court.

7.The petitioner had applied for Indian Citizenship, through the third respondent herein by an application, dated 20.07.2015. The said application was rejected by the third respondent herein on the ground that the petitioner, as on the date of the application, did not have a valid passport and a valid residential permit. This order is under challenge in the present writ petition.

8.The learned counsel for the writ petitioner had contended that she intends to relinquish her Srilankan Citizenship. The petitioner is the resident of India from the year 1983 onwards and there are no adverse



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remarks as against the petitioner. In view of the above narrated facts, the petitioner is not able to produce the valid residential permit to keep the foreign passport valid.

9.Per contra, the learned Standing Counsel appearing for the first respondent has contended that in view of the statutory provisions, the petitioner should produce the documents as contemplated under Form-3 in reference to Rule 5 of Citizenship Rules, 2009. The first respondent will not be in a position to consider the application of the writ petitioner.

10.Despite the orders passed by this Court in WP(MD)No.3846 of 2013, the fourth respondent has not passed any orders in the application for a valid residential permit. The fourth respondent, the Superintendent of Police, Kanyakumari District, is directed to consider the application of the writ petitioner without insisting upon the valid foreign passport of the writ petitioner. According to the petitioner she has now changed her address to another Taluk in Kanyakumari District.



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11.In view of the above facts, this Court passes the following orders:

(i) This Court directs the petitioner to file a fresh application for residential permit to the fourth respondent herein along with the proof of her present address. The said application shall be considered by the fourth respondent herein without insisting upon a valid passport. The said order should be passed by the fourth respondent within a period of 12 weeks from the date of receipt of application from the petitioner. The fourth respondent shall also taken into consideration the order, passed by this Court, on 16.04.2013, in WP(MD)No. 3846 of 2013.

(ii) Incase, residential permit is granted by the fourth respondent, the petitioner is at liberty to approach the third respondent herein. The petitioner shall validate her foreign passport and thereafter, approach the third respondent.



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(iii) Incase, the petitioner approaches the third respondent with a valid a foreign passport and a valid residential permit, the third respondent is directed to forward the citizenship application to the second respondent within a period of 12 weeks from the date of receipt of such application from the petitioner.

12. With the above observations, this Writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order



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Union of India,
Ministry of Home Affairs,
Jaisalmer House,
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New Delhi-110 011.
- 2.The Principal Secretary,
The State of Tamilnadu,
Department of Home,
Secretariat, Fort St.George,
Chennai-9.
- 3.The District Collector,
Kanyakumari District,
Kanyakumari.
- 4.The Superintendent of Police,
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R.VIJAYAKUMAR ,J.

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Dated:
22.08.2022