



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28/04/2022

CORAM:

WEB COPY

THE HON'BLE MR JUSTICE G.ILANGO VAN

WP(MD)No.23415 of 2018

S.P.Udhayakumar

: Petitioner

Vs.

1.The Joint Secretary (PSP) &
Chief Passport Officer,
O/o.The Joint Secretary (PSP)
& Chief Passport Officer,
CPV Division, Patiala House Annexe,
Tilak Marg,
New Delhi-110 001.

2.The Regional Passport Officer/
Passport Issuing Authority,
Regional Passport Office,
Madurai.

3.The Director General of Police,
O/o.The Director General of Police,
Mylapore, Chennai-600 004.

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

: Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to re-issue the passport to the petitioner and permit the petitioner to travel abroad by way of cancelling the look-out notices pending against the petitioner in the National and International Airports in India in the light of the Judgment of the Hon'ble Supreme Court in Maneka Gandhi Vs. Union of India, within a time.

For Petitioner : Mr.T.Lajapathi Roy

For R1 and R2 : Mrs.S.Ragaventhre
Central Government Standing
Counsel

For R3 and R4 : Mr.B.Nambi Selvan
Additional Public Prosecutor



O R D E R

The writ petition is filed seeking a writ of mandamus, directing the respondents to re-issue the passport to the petitioner to travel abroad, by cancelling the look-out notice, that has been issued against the petitioner.

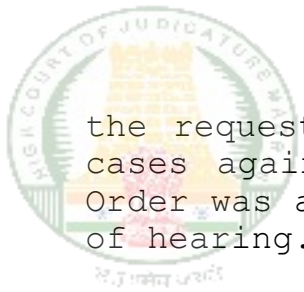
2.The petitioner is a permanent resident of Kanyakumari District. He was working as a Professor at Monmouth University, New Jersey, United States and presently, the Convenor of People's Movement against Nuclear Energy and is protesting against the Kudankulam Nuclear Power Plant Project.

3.Several cases have been registered against the petitioner and others in connection with the protest and demonstration, etc and in some cases, warrants have also been issued against him and in some cases, he is appearing before the concerned courts. In CC No.227 of 2012 on the file of the Judicial Magistrate, Valliyoor, warrant was issued against him and he was not aware of the issuance of warrant. Because of the above said warrant, his passport was impounded. The request that was made by him, was rejected. Travelling abroad is a fundamental right, which cannot be away, simply because the criminal cases are pending against the petitioner. More-over, the Hon'ble Supreme Court in the judgment reported in the case of **G.Sundarajan Vs. Union of India [(2013) 6 SCC 620]** has directed the State Government to withdraw the cases that have been registered against the protestors in connection with the Nuclear Energy Plant issue.

4.Based upon the above said order, some of the cases have been quashed by this court, which were registered against the petitioner. Writ Petition in WP(MD)No.23493 of 2016 was filed by the petitioner and in that petition, an order was passed directing the authorities concerned to consider the representation of the petitioner. In pursuance of the above said order, the passport was reissued to him with certain conditions, as per the order of the Judicial Magistrate, Valliyoor, in Cr.M.P No.5053 of 2017, dated 11th September 2017. Even after that, the passport was not reissued by the 2nd respondent. Therefore, he sent a representation, dated 25/09/2017 to the 2nd respondent to re-issue the passport and to withdraw the look-out notice. That was not considered. So, this writ petition is filed seeking the relief as stated above.

5.Heard both sides.

6.The petitioner is a well known activist, protesting against the installation of the nuclear power plant in Kudamkulam. As mentioned by him in the petition, several cases have been registered against the protestors and as mentioned by him, some of the cases have been quashed and some of the cases are pending against the petitioner and others. In pursuance of the judgment of the Hon'ble Supreme Court in the above said case, the Government has considered



the request of the petitioner and ordered to withdraw the criminal cases against the petitioner in some of the cases. The Government Order was also brought to the notice of this court during the course of hearing.

7. Now the question arises for consideration, whether the criminal cases pending against the petitioner can be a ground for rejecting the request of the petitioner for travelling abroad. Right from the judgment of the Hon'ble Supreme Court in the case of **Manaka Gandhi Vs. Union of India**, the fundamental right of a citizen to visit abroad is recognized. There can be no quarrel on the proposition of law. When the criminal cases are pending, only the competent criminal court can permit the accused persons to travel abroad. A circular that has been issued by the Ministry of External Affairs, which has been extensively quoted by this court in the earlier orders. So at one point of time, this court was of the view that the petitioner must approach the concerned court, where the trial is pending against him for appropriate relief.

8. The learned counsel appearing for the petitioner would submit that several cases are pending before the various courts. So the petitioner may not be in a position to approach each and every court for getting the relief. It appears that such a sort of contention is reasonable one. The petitioner has furnished the list of cases against him. But in some of the cases, summons were issued and in some of the cases, no summons were issued against him. He is not aware full the details.

9. The Government is not in a position to inform the court about the cases against the petitioner. In such an event, the petitioner produced the copy of the document for the purpose of his visit to abroad. He produced the document, dated 18/04/2022 from Sakarya University of Turkey stating that it is located in Turkey and they are hosting the International Conference under the title 'Xenophobia in the Media' on 30 and 31 May 2022 and the Conference is intended to climax a series of workshops for journalists in Turkey also. So according to the petitioner, he was invited to participate in the above said Conference. No doubt that the petitioner has got every right to visit abroad, as mentioned earlier, of course, with certain conditions.

10. So this petition is liable to be allowed with the following conditions:-

(i) The petitioner must execute a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) along with two sureties to the like sum to the satisfaction of the Judicial Magistrate, Vallioor, within a week from the date of receipt of a copy of this order;

<https://hcservices.ecourts.gov.in/hcservices/>

(ii) An affidavit of undertaking must also be filed before the concerned court stating that he will return



to India, after the Conference is over and he must also inform the Embassy of India about his whereabouts and address; and

(iii) The look out notice issued against the petitioner stands suspended for a period of one month from 20 May 2022 to the end of June 2022.

11. With the above said conditions, this writ petition stands **allowed**. No cost.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1. The Joint Secretary (PSP) &
Chief Passport Officer,
O/o. The Joint Secretary (PSP)
& Chief Passport Officer,
CPV Division, Patiala House Annexe,
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O/o. The Director General of Police,
Mylapore, Chennai-600 004.



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

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

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-22463[F] dated 29/04/2022)

+1 CC to M/s.S. RAGAVENTHRE, Advocate (SR-22581[F] dated 29/04/2022)

WP (MD) No. 23415 of 2018
28.04.2022

SS/26.05.2022 : 5P/8C