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W.P.No.1899 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.1899 of 2020

Sri Radhakrishnan Kandan

... Petitioner

Vs.

1. Assistant Commissioner of Customs,
Chennai Airport & Air Cargo Complex,
New Custom House, Meenambakkam,
Chennai – 600 027.

2. Assistant Immigration Officer,
Shastri Bhavan, Haddows Road,
Chennai – 600 034.

3. Deputy Secretary to the Govt. of India,
Ministry of Home affairs, Foriegners's Division,
Major Dayan Chand National Stadium, India Gate Circle,
New Delhi – 110 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider the representation / reply dated 19.09.2019 and forthwith to release the Overseas Citizenship of India (OCI) card bearing No.143287 and for consequential orders.

For Petitioner : Mr.J.Karunanithi

For Respondents : Mr.V.Sundareswaran
Senior standing counsel for R1

ORDER



W.P.No.1899 of 2020

This writ petition has been filed seeking for issuance of a writ of mandamus to direct the respondents to consider the petitioner's representation / reply dated 19.09.2019 and forthwith to release the Overseas Citizenship of India (OCI) card bearing No.143287 and for consequential orders.

2. It is the case of the petitioner that he is the Indian origin but Srilankan National and was issued with Overseas Citizenship of India (OCI) card bearing No.143287 by the Government of India. The petitioner came to India for the purpose of seeing his parents and when he was bound to return to Colombo, Srilanka with Srilankan passport bearing number N7738454 along with OCI card, the officers of customs intercepted the petitioner and examined one black color hand baggage resulting in recovery of 5900 US Dollars. The seizure made by the customs was not declared and a case was registered in OS.No.386/2018-AIU. The first respondent apprehended the petitioner's OCI card and the same was handed over to the second respondent, who in turn directed the petitioner to approach the second respondent for return of OCI card. It is further the case of the petitioner that he had given written submissions to the first respondent in connection with the said case and an order was passed by the first respondent on 31.01.2019 for absolute



W.P.No.1899 of 2020

confiscation of currency and also imposed the personal penalty of Rs.40,000/-

under Section 114 of the Customs Act, 1962. Aggrieved over the same, the petitioner preferred an appeal before the Commissioner of Customs (Appeals) Chennai, who passed an order to release the foreign currency to the tune of Rs.4,24,505/- on payment of a redemption fine of Rs.1,10,000/- while upholding the personal penalty of Rs.40,000/-. After deposition of the redemption fine and personal penalty, the seized currency was released to the petitioner, but the OCI card was not returned. Therefore, the petitioner made a representation to the second respondent on 04.06.2019 seeking to return the OCI card, but the third respondent has issued a show cause notice dated 06.09.2019 as to why the OCI card should not be cancelled, for which the petitioner has addressed the third respondent vide reply / representation dated 19.09.2019 to release the OCI card, but no orders have been passed. Hence the present writ petition.

3. Learned counsel for the petitioner submits that though the beneficiary is not the party in this writ petition it would suffice if this Court issues a direction to the respondents to consider the petitioner's representation dated 19.09.2019 and pass appropriate orders within the time frame that may be



W.P.No.1899 of 2020

fixed by this Court.

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4. Learned Senior Standing counsel appearing for the first respondent has no objection for the said order being passed.

5. Considering the facts and circumstances of the case, this Court without going into the merits of the case directs the petitioner to send a copy of the representation dated 19.09.2019 and also a copy of this order to the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents shall consider the petitioner's representation dated 19.09.2019 and pass appropriate orders on merits and in accordance with law within a period of four (4) weeks thereafter.

6. Accordingly, this writ petition is disposed of. No costs.

03.04.2023

Index : Yes / No
Speaking order / Non speaking order
Netrual Citation Case : Yes / No
(rap)

To



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M.DHANDAPANI, J.

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