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W.P.No.20160 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.20160 of 2023

- 1.Miss.Vanishaa Vysnavi Harann
- 2.Master. Jaydern Krrish Harann

Both of them represented by
their Mother and natural guardian,
Ms.Ghaiyatri Neetta Puvanakesari

.... Petitioners

Vs

- 1.Union of India,
Ministry of Home Affairs,
Government of India North Block,
New Delhi – 110 001.
- 2.The Foreigners Regional Registration
Officer Bureau of Immigration,
Shastri Bhavan, Annexe Building 26 Haddows Road,
Nungambakkam Chennai – 600 006.
- 3.The Foreigners Regional Registration
Officer Branch Office,
Thaiyar Kullam Kanchipuram – 631 501.
- 4.Additional Deputy Commissioner of Police (ADC)
Intelligence Section,
O/o the Commissioner of Police,
Armed Reserve Madambakkam, Selaiyur,
Tambaram – 600 126.



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5. Inspector of Police,
E-8 Kelambakkam Police Station,
Rajiv Gandhi Salai, Kittu Nagar,
Kelambakkam Tamilnadu – 603 103.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the Respondents 1 to 3 to process and issue the Petitioners herein extension of their X-1 Visa vide Application No: 120523FCTJ59 for Miss.Vanishaa Vysnavi Harann and Application No.120523518L60 for Master.Jaydern Krrish Harann and legalize their stay in India from the period 04.03.2021 to present, within a time frame to be stipulated by this Hon'ble Court.

For Petitioner : Mr.C.Vidhusan

For Respondents : Mr.Prasad Vijayakumar for RR1 to 3
Mr.S.J.Mohamed Sathik,
Government Advocate for R4 & R5

ORDER

The petitioners are minors, aged 12 years and 15 years under the care of their mother, who represents them in this proceedings. They are citizens of the United Kingdom and have entered this Country under X-1 Visa. The Visa expired on 03.03.2021 during Covid days, when the world came to a standstill. It is in this circumstance, the petitioners have applied for a



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renewal of Visa on 04.03.2021 and this Application was kept pending till November 2021 and it was rejected Vide proceedings of the second respondent dated 23.11.2021.

2.Undeterred, the petitioners filed a second Application dated 24.01.2022. In this, they sought for an extension of their X-1 Visa and in the alternative for an Exit Visa. While considering the second mentioned Application, the Authorities required a NOC of the petitioners' father or a NOC from an Executive Magistrate for issuing an Exit Visa. This was rejected by the second respondent Vide communication dated 14.07.2022 directing the petitioners to go before its counter part in Chengalpattu.

3.On 24.07.2022, the petitioner approached the third respondent, the counter part of the second respondent in Chengalpattu District. When the third mentioned Application was pending consideration of the Authorities, the petitioners' passport too expired and the petitioners had their passport renewed but, this was cited as a reason for rejecting the third mentioned Application Vide communication dated 26.04.2023. The petitioners would not give up and now made up a fourth Application on 12.05.2023 for



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renewal of Visa and it is pending consideration.

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4.Mr.Prasad Vijayakumar, learned counsel for the respondents 1 to 3 informed the Court on written instructions to his Whatsapp received this morning, that the second respondent would only issue an Exit Visa to the petitioners.

5.The learned counsel for the petitioners submitted that the petitioners are now left with little option but, to obtain the Exit Visa and leave the Country.

6.The learned counsel for the petitioners further submitted that the petitioner's mother had visited the office of the second and third respondents several times and she was told that in the eventuality of the Authorities issuing a Exit Visa for the petitioners, they may have to pay a penalty of more than Rs.1,00,000/- for over staying in India.

7.The learned counsel for the petitioners further submitted that the situation was not self-created but forced on them by the Covid-19 and that these children have applied for extension of their Visa and it was pending under



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different desk for an year and in fact, on an Application filed in March 2021 for renewal, the second respondent has informed the petitioners that it is not the office to consider that in July 2022, some 16 months after the Application was filed. During this interregnum, the petitioners were justly hopeful that their Visa would be extended.

8.The learned counsel for the petitioners submitted that the Authorities may be directed to waive the penalty to enable the children to leave the Country peacefully.

9.This Court does not want to interfere where the discretion is left with the Authorities. This Court only expects them to understand the plight of the children given the context that this situation has partly arisen owing to the Covid-19 pandemic situation and partly perhaps due to the delay in the official level. As rightly argued by the learned counsel for the petitioner, if the second respondent had intimated the petitioner promptly without waiting for some one and half years between March 2021 and July 2022 next, they would have known what has been put before them. Any delay and default on the part of the officials, may not be left to reflect on the petitioners.



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10.This observation, this Court makes not within the frame work of law but, as a matter on persuading the Authorities to consider any such possible claim from them, if they propose to take any such penal action they contemplate of taking against the petitioner.

11.The third respondent is now directed to decide on renewing the Visas or issuing a Exit Visas to the petitioners within a period of four(4) weeks from today, in consensus with the observations herein above made.

12.The Writ Petition is disposed of accordingly. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Tsg



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N.SESHASAYEE.J.,

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