



W.P.No.23209 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.DHANABAL**

W.P.No.23209 of 2023

Srikanan @ Murugan

... Petitioner

Vs.

1.Foreigners Regional Registration Officer,
Bureau of Immigration (MHA),
Government of India,
Shastri Bhavan Annexe,
Chennai-600 006.

2.State of Tamil Nadu represented by its.
Secretary to Government,
Public SC Department,
Secretariat, Chennai-600 009.

3.The District Collector,
Trichirappalli.



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4.The Special Camp Incharge,
Foreigners Detention Centre,
Trichirappalli.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India for for the issuance of Writ of Mandamus, directing the respondents to permit the petitioner to go to Srilankan Deputy High Commission office at Chennai with proper escort for getting an all country passport and permit him to leave the country at his own cost.

For Petitioner : Mr.V.Elangovan

For R1 : Mr.AR.L.Sundaresan
Asst Solicitor General
for Mr.K.Subburanga
CGC

For R2 : Mr.S.Rajakumar
Additional Public Prosecutor

For R3 & R4 : Mr.P.Baladhandayutham
Special Government Pleader



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ORDER

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This Writ Petition has been filed by the petitioner to direct the respondents to permit the petitioner to go to Srilankan Deputy High Commission office at Chennai with proper escort for getting an all country passport and permit him to leave the country at his own cost.

2. It is averred in the affidavit of the writ petition that the Government of Tamilnadu have taken policy decision to release all the seven Rajiv Gandhi Murder case convicts by invoking Article 161 of the Constitution of India. Thereafter, the Tamilnadu cabinet passed the resolution on 09.09.2018, requesting the Governor of Tamilnadu to pass an order to release petitioner along with others based on the said policy decision.

3. It is further averred that the above referred to policy decision was taken up before the Hon'ble Supreme Court in Criminal Appeal No.1975 of 2022 for release of all seven convicts including petitioner along



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with others. The Hon'ble Supreme Court by an order dated 11.11.2022 have held as follows:

"8. Thus, it could be seen that the Court held that the Hon'ble Governor, in the matter of remission of an appellant convicted under Section 302, was bound by the advice of the State Cabinet. Indisputably, in the present case also, the State Cabinet had resolved to grant remission to all the appellants/applicants.

9. In the case cited Supra, this Court took into consideration various factors, which, according to this Court, were sufficient to direct that the appellant (Perarivalan) therein be deemed to have served the sentence awarded in connection with Crime No. 329 of 1991. The appellant therein, who was already on bail (Perarivalan), was directed to be set at liberty forthwith. His bail bonds were also cancelled.

...

15. In the case of appellant/applicant-S.Nalini, she is a woman and has been incarcerated for a period of more than three decades and her conduct has also been found to be satisfactory. She has also undertaken various studies during the period of incarceration, including a post-graduate diploma in Computer Applications.

16. In the case of appellant/applicant Sriharan @ Murugan, his conduct has also been found to be satisfactory. He has also



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undertaken various studies, including Applications. Master of Computer Applications.

17.

18. therefore, We, direct that all the appellants/applicants be deemed to have served their respective sentences in connection with Crime No. 329 of 1991. The appellants/applicants are, therefore, directed to be set at liberty forthwith, if not required in any other case."

4. Pursuant to the above said direction of the Hon'ble Supreme Court, the petitioner was released from jail on 12.11.2022 and thereafter, the petitioner was lodged in Special Camp for Srilankan Tamils, Central Jail Campus, Trichirappalli. While so, he had obtained various educational qualifications and the said details is also stated in the the affidavit of the writ petition.

5. Immediately, after the decision of the Apex Court in respect of the issue, the Tamilnadu Government passed an order under section 3(2)(e) of the Foreigners Act, 1948. As per para 11(2) of the Foreigners Order, 1948, the petitioner is being referred to the Special camp (Foreigners



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Detention Centre), Trichirappalli with immediate effect till his deportation to his home country and the petitioner had been detained in the said camp till date.

6. According to the petitioner, his daughter S.Mehara was allowed to enter the United Kingdom (UK) and was given refugee status and allowed her to continue her studies. He further submitted that Srikan @ Murugan/petitioner herein cannot go to his home country in view of the present situation and there is no safety in Srilanka to his life. Hence, the petitioner made a request to the respondents to permit him to go to Srilankan Deputy High Commission Office, at Chennai for getting an All Country Passport and thereafter permit him to travel to other countries. The said application is stated to be pending with the Srilankan Deputy High Commission Office, Chennai.

7. Now, on this situation, the petitioner filed this writ petition seeking direction to the respondents to permit the petitioner to go to Srilankan Deputy High Commission Office at Chennai with proper escort



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for getting an All Country Passport and permit him to leave the country at his own cost.

8. The learned counsel for the petitioner would submit that the petitioner's application for granting permission to travel to other countries is pending and therefore, prayed this court for a direction to the respondent-High Commissioner, to receive the said application.

9. Learned Additional Public Prosecutor appearing for the respondent-Secretariat (Public SC Department) has reiterated his stand stated in the counter and submitted that required escort will be given to the petitioner to go to Sri Lankan Deputy High Commissioner officer at Chennai as and when the petitioner intimates the time and date fixed by the Sri Lankan Deputy High Commissioner Office at Chennai for getting an All Country Passport.

10. The Assistant Solicitor General would submit that in the



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event of the petitioner giving assurance and undertaking before this Court for cooperating with the respondent-department, required escort could be given to the petitioner to go to Srilankan Deputy High Commissioner Office at Chennai for getting an All Country Passport.

11. The first respondent filed counter affidavit. It is stated in the counter that the prayer sought for by the petitioner is only as against the second respondent. Only for the purpose of clarification, the counter is filed by the first respondent stating about the nationality of the petitioner. It is stated that after verifying the nationality and the country details, the petitioner will get travel document from the concerned Embassy/High Commission. In the process of repatriation, the travel document of the concerned foreigner will be sent to the first respondent. Thereafter, the same will be handed over to the foreigner with an exit permit. Generally, the foreigner is issued with one time travel document for the purpose of repatriation to his home country by the concerned Embassy/High Commission. However, in this case, the petitioner wants to visit directly the Deputy High Commission of Srilanka, Chennai and get all country passport



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in order to travel to UK. This practice of approaching the Embassy/High Commission directly may not be set as precedent for other foreign nationals, who might approach the Court and seek permission without following the due procedures.

12. At this juncture, we are inclined to grant the relief as prayed for by the petitioner only as against the State Government/2nd respondent. As stated by the 2nd respondent in the counter affidavit, as and when date and time is fixed by the Srilankan Deputy High Commission, Chennai, for appearance of the petitioner, the petitioner shall appear before the Srilankan Deputy High Commission, Chennai, On such date and time, the 2nd respondent is directed to provide necessary escort to the petitioner to enable him to appear before Srilankan Deputy High Commission, Chennai.

13. The petitioner's prayer as against first respondent is concerned, the petitioner can work out his remedy, in the manner known to law, at the relevant point of time.



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14. Even though the learned counsel for the petitioner would rely on the orders of this Court, wherein, this court granted relief to the persons who are similarly placed for issuance of all country passport, the request of the petitioner for such relief in the case on hand is premature.

15. With the above direction, this writ petition is disposed of.

No costs.

(D.K.K.J) (P.D.B.J)

18.12.2023

Index : Yes or No

Speaking order : Yes or No

Neutral Citation : Yes or No

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To



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