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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.11.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.28448 of 2023 and
WMP.No.27993 of 2023

Nedumaran Palaniappan

... Petitioner

Vs

1.The Regional Passport Officer
Regional Passport Office, Chennai
Royala Towers No.2 & 3, IV Floor
Old No.785, New No.158
Annasalai, Chennai-600 002, Tamil Nadu.

2.The Inspector of Police
Thanjavur Police Station,

3.The Inspector of Police
Karur Police Station

4.The Inspector of Police
Triplicane Police Station

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus directing the Respondents to forthwith
renew the Petitioner's passport (Passport No.K5820648) within a timeframe
stipulated by this Court.



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For Petitioner : Ms.Kavitha Deenadayalan
for Ms.Gayatri Ranganathan

For Respondents : Mr.G.Ilangovan (for R1)
Central Government Senior Standing Counsel

Mr.S.Sugendran (for R2 to R4)
Additional Public Prosecutor

ORDER

The petitioner is one Nedumaran Palaniappan, who is a super senior citizen. He holds Passport bearing No.K5820648, which had expired, pursuant to which he had made an application under file No.MA3075297518923 for renewal, on 24.04.2023. The petitioner is aggrieved by the pendency of his application for renewal of Passport and has thus approached this Court seeking a mandamus directing the respondents to forthwith issue the same.

2.On 03.05.2023, the first respondent i.e. Regional Passport Officer/R1 had corresponded with the petitioner to the effect that an adverse police report had been received. The petitioner was called upon to appear before him and provide clarifications in regard to the pending matters. The Crime Numbers mentioned therein were 524 of 2013, 115 of 2023 and 321 of 2018.

3.The petitioner responded in June 2023 retorting that he has been faced with FIRs on many occasions and several of those criminal cases had



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culminated in an acquittal. The annexure to his response chronicle a long list of earlier criminal antecedents. He would urge that the mere pendency of criminal cases/trial did not warrant delay in processing of Passport. The lack of response by the respondents has triggered the filing of the present writ petition.

4.A counter has been filed on behalf of the first respondent wherein, R1 confirms that as far as Cr.No.115 of 2023 is concerned, it has not been taken on file (NTF). Thus, there are two criminal cases pending as against the petitioner, at this point of time.

5.Had it been restricted to the pendency of the criminal matters, this Court would have encountered no difficulty in directing the issuance of Passport in light of the judgment of the Hon'ble Supreme Court in *Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation* [Criminal Appeal No.1342 of 2017 dated 27.09.2021].

6.In that case, the Supreme Court, after a consideration of the provisions of Section 6(2) of the Passport Act, 1967 (in short 'Act'), has held that the mere pendency of criminal appeals could not be taken to be a ground for refusal to either issue/renew a Passport.

7.This decision has been followed on several occasions including recently by the First Bench of this Court in *Regional Passport Officer v. Samsudeen Mohamed Salih and another* (WA.No.902 of 2023 dated 02.06.2023) and by



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me in *Suresh v. Regional Passport Officer* (WP.No.30019 of 2023 dated 17.11.2023).

8.However, there is yet another aspect that arises in this matter. R1 has filed an additional counter as well as a compilation of documents dated 10.11.2023 in support of another ground of defence. The respondents specifically invoke Section 6(2)(b) and (c) of the Act that reads as follows:

6.Refusal of passports, travel documents, etc.-

.....

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:--

(a) that the applicant is not a citizen of India;

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;

(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

(e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;



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(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India;

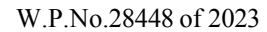
(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a Court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such Court;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.'

9. My attention is drawn to the fact that the petitioner is a sympathiser of the Liberation Tigers of Tamil Eelam (LTTE) and has given several interviews in the press in that regard. Specifically, the respondents draw attention to a statement of the petitioner reported in The Hindu and Times of India Newspapers on 13.02.2023, that a resurgence of that organisation is expected very soon.

10. This has caused apprehensions in the mind of the respondents and, in fact, vide communication dated 31.10.2023, R1 has written to the Commissioner of Police seeking a discreet enquiry into the activities of the petitioner, such that, a decision may be taken on whether the Passport may be



Ministry of External Affairs at New Delhi soliciting their views in this regard.

their enquiry, for rebuttal.

the matter.

appropriate to issue a positive direction for renewal of passport as sought for. It



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would suffice to balance the interests of both parties that the petitioner's application be directed to be considered expeditiously, bearing in mind, his advanced age as well as the fact that, his counsel states, he is required to travel abroad for medical reasons. After hearing his submissions and consideration of material, if any in support of his application, let an order be passed not later than two (2) weeks from date of receipt of a copy of this order, in accordance with law.

14.This writ petition is disposed in the aforesaid terms. No costs.
Connected miscellaneous petition is closed.

24.11.2023

Index : Yes/No

Speaking order

Neutral Citation:Yes

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Dr.ANITA SUMANTH, J.

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