



WEB COPY

WP No.29053 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-03-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.29053 of 2017

And

WPMP No.31282 of 2017

Witold Stanislaw Pilawa

... Petitioner

Vs.

- 1.The Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
Central Secretariat,
New Delhi – 110 001.
- 2.The Secretary,
Ministry of External Affairs,
Government of India,
North Block,
Central Secretariat,
New Delhi – 110 001.
- 3.Foreigners Regional Registration Officer,
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,



WEB COPY

WP No.29053 of 2



Shastri Bhavan,
Annexe Building,
26 Haddows Road,
Nungambakkam,
Chennai-06.

4. The Regional Registration Officer,
Office of Regional Registration Officer,
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
No.1, 2nd Cross, Navasakthi Nagar,
Vazhuthavoor Road,
Puducherry – 605 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to letter Number 18/NCC/RRO/2017-1037 dated 05.10.2017 on the file of the fourth respondent and quash the same as illegal and arbitrary and consequently direct the respondents to consider and pass appropriate orders on the conversion and Grant of Visa/Residential Permit Application made by the petitioner on 28.08.2010, 05.09.2010 acknowledged vide intimation dated 13.09.2010 and application dated 07.08.2017 in accordance with law and to grant Residential Permit to the petitioner.

For Petitioner : Mr.Adinarayana Rao

For Respondents : Mr.B.Rabu Manohar,
Senior Central Government Panel
Counsel.



WEB COPY

WP No.29053 of 2



ORDER

The present writ petition has been filed challenging the proceedings issued by the Regional Registration Officer, Pondicherry to verify the antecedents and to get Police Clearance Certificate for the purpose of considering the case of the writ petitioner to grant Visa.

2. The petitioner admittedly is a French National came to India through Student Visa in the year 1994. The petitioner had involved in a criminal case and the same ended with an order of acquittal in the year 2005. Thereafter the petitioner overstayed in India for several years.

3. The learned counsel for the petitioner states that the petitioner could not get back his Passport, which was surrendered before the Court at Pondicherry. Finally, the petitioner was issued with an Exit Permit Order and accordingly, he went to Kathmandu at Nepal.



WEB COPY

4. The petitioner submitted an application for X-2 Visa to return back to India, since he got married in India and was residing along with his wife at Pondicherry. The wife of the petitioner is also an Overseer Card Holder (OCH). The petitioner submitted an application to the Authority at Pondicherry to grant Visa. The said application to grant New Visa was not considered and the Exit Permit grant was recorded in the Status Enquiry.

5. The learned counsel for the petitioner states that the case of the petitioner is to be considered for grant of X-2 Visa and the Authorities are not taking any decision. Thus a direction is to be issued by this Court to the Authorities to consider the case of the writ petitioner.

6. The learned Senior Central Government Panel Counsel appearing on behalf of the respondents raised an objection by stating that the petitioner is not entitled to seek any such direction from the hands of this Court. The petitioner overstayed in India for long years and he was asked to exit by the Competent Authorities, since he was not holding any



valid document to stay in India.

WEB COPY

7. No doubt the petitioner was issued with an exit permit and accordingly, he travelled from India to Kathmandu at Nepal on 29.03.2023.

8. If at all the petitioner wishes to come back to India, he has to submit an appropriate application before the Competent Authority in Indian Consulate in Nepal if he resides there. Only if an application is filed before the Competent authority along with the required documents, the Authorities will be in a position to consider the case of the writ petitioner.

9. However, in such nature of cases, the High Court cannot issue any direction, since the petitioner had already overstayed in India for long years and further he had involved in a criminal case and was acquitted in the year 2005. If at all the petitioner submits any such application for grant of X-2 Visa before the Competent Authority, it is for the Authorities to consider the same on merits.



10. With the above observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

30-03-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

1. The Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
Central Secretariat,
New Delhi – 110 001.
2. The Secretary,
Ministry of External Affairs,
Government of India,
North Block,
Central Secretariat,
New Delhi – 110 001.
3. Foreigners Regional Registration Officer,
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
Shastri Bhavan,
Annexe Building,
26 Haddows Road,
Nungambakkam,
Chennai-06.
4. The Regional Registration Officer,
Office of Regional Registration Officer,
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
No.1, 2nd Cross, Navasakthi Nagar,
Vazhuthavoor Road,
Puducherry – 605 009.



WEB COPY

WP No.29053 of 2



S.M.SUBRAMANIAM, J.

Svn

WP 29053 of 2017

30-03-2023