



W.P.(MD) No.3359 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No. 3359 of 2020

Rajamahendran

.. Petitioner

Vs.

1.The Government of India,
New Delhi,
By its Secretary,
Foreign Affairs,
New Delhi.

2.The Passport Officer,
Tiruchirappalli.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the second respondent to return back the Indian Passport Number M3347248 to the petitioner.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.K.Prabhu
Central Government Counsel



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ORDER

This writ petition is filed for a mandamus, directing the second respondent to return back the petitioner's Indian Passport bearing No.M3347248.

2. It is the case of the petitioner that his paternal grandfather Chellaiah and his wife Thailammal belonged to Melaperumalai Village in Thiruthuraipundi Taluk, in erstwhile Thanjavur District, who had migrated to Sri Lanka 40 years ago with the petitioner's father, who was then 9 years old. The petitioner's mother's maternal uncle was residing at Madurai. The petitioner's father used to regularly travel to Madurai, where he had met the petitioner's mother Kantharoopamathi and got married to her. The petitioner was born on 01.01.1974 at Periyapatti Village, Madurai and continued there till he turned a year old. Thereafter, the petitioner and his mother were taken to Sri Lanka by his father and after the ethnic problem started in Sri Lanka, he and his family returned to Madurai.



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3. The petitioner would submit that he had studied from I to VI standard in R.C. Primary School, Arapalayam, Madurai and VII and VIII standard at St. Britto Higher Secondary School, Arapalayam, Madurai. He and his family were living in Madurai till 1992 from where they shifted to Trichy. He had applied for an Indian Passport in the year 1992 and had gone to Sri Lanka where he got married. The petitioner's wife was a Sri Lankan citizen. He and his wife returned to India in the year 1999, after obtaining a passport from the Sri Lankan Government. The petitioner submits that he was in Srirangam for one month and thereafter, went back to Sri Lanka. From Sri Lanka, he had left for Qatar on employment in the year 2006 where he was residing till 2012. Thereafter, he returned to Trichy and was living there. In the year 2014, he had applied for his Indian passport and at that point of time, the second respondent had made an enquiry about the earlier passport obtained in the year 1992. The petitioner had agreed to the same and he was imposed with fine of Rs.1,000/- and a passport was issued in the year 2014.



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4. On 20.02.2015, when the petitioner was leaving India for Sri Lanka on the passport issued by the second respondent, he was arrested by the Inspector of Police, Perungudi Police Station, Madurai, for offences under Sections 467, 468 and 471 IPC read with Section 12(1)(a) of the Indian Passports Act, 1967 and Section 14 of the Foreigners Act. The petitioner pleaded guilty and he was convicted on 23.12.2015 in C.C.No.391/2015 to undergo 3 months Rigorous Imprisonment and fine of Rs.3,000/- for the offence under Section 3 read with Section 12(1)(a) of the Passports Act and imprisonment for 3 months and fine of Rs.2,000/- for the offence under Section 14 of the Foreigners Act. The petitioner had paid the fine and had spent three months in the jail.

5. The petitioner would submit that he had submitted a representation to the second respondent to return his passport. However, the second respondent called upon him to first surrender the Sri Lankan passport to the Sri Lankan Embassy. He would submit that the Sri Lankan passport is also with the second respondent and unless the



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second respondent sends the passport to the Sri Lankan Embassy, he will not be in a position to surrender his passport. Since no action has been taken on the representation sent by the petitioner to return his licence, the present writ petition is filed.

6. The first respondent filed a counter affidavit, *inter alia* contending that if the petitioner is aggrieved by the revocation of his passport, he has to only file an appeal under Section 11 of the Passports Act. He would further submit that the petitioner had applied for a new passport without disclosing the earlier passport details and the file was closed, since the office had received an incomplete police verification report. Thereafter, the petitioner had applied for fresh passport after furnishing the file closure letter dated 20.03.2014, once again without giving details of the previous passport. While so, a letter was received from the Regional Passport Officer, Madurai on 01.09.2017 forwarding a letter issued by the Judicial Magistrate-VI, Madurai enclosing two passports of the petitioner, one of them was a Sri Lankan passport bearing No.N1531373 and the other Indian passport bearing



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No.M3347248 which have been issued by the Passport Office, Trichy.

On verification of the two passports, it was found that the same were issued to the very same applicant where the birth and nationality differed. The Indian passport was obtained showing the birth place at Madurai, whereas the Sri Lankan passport was obtained showing the place of birth as Colombo and nationality was shown as Sri Lankan. Therefore, proceedings were initiated and ultimately the petitioner was convicted. Thereafter, the matter was referred to the Deputy Superintendent of Police, Q Branch CID, Trichy on 13.12.2018 to conduct a discreet enquiry regarding the petitioner's nationality. By response dated 06.09.2018, the Q Branch authorities stated that the petitioner is a Sri Lankan Tamil and he had managed to get a missing certificate from the Kalayarkovil Police Station through an agent by filing a complaint that his Indian passport bearing No.M3347248 is lost, whereas the passport was seized in a criminal case and was in the custody of the Judicial Magistrate-VI, Madurai in C.C.No.391/2017. Utilizing this certificate, he has obtained another Indian passport bearing No.P3103678 under a re-issue (lost) category.



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7. The counter would set out various acts of deception that have been done by the petitioner.

8. Heard the learned counsel appearing for the parties.

9. Perusal of the counter would clearly show as to how the petitioner has managed to manipulate official records and obtain the documents through deception. However, considering the fact that Section 11 of the Passports Act makes provision for an appeal, the remedy of the petitioner is only to approach the appellate authority. Section 11 of the Passports Act would read as follows:

“ Section 11. Appeals.—

(1) Any person aggrieved by an order of the passport authority under clause (b) or clause (c) of sub-section (2) of section 5 or clause (b) of the proviso to section 7 or sub-section (1), or sub-section (3) of section 10 or by an order under sub-section (6) of section 10 of the authority to whom the passport authority is subordinate, may prefer an appeal against that order to such authority (hereinafter



referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor: Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963 (36 of 1963), with respect to the computation of the periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and [by such fee as may be prescribed for meeting the expenses that may be incurred in calling for relevant records and for connected services].

(5) In disposing of an appeal, the appellate authority shall follow such procedure as may be



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prescribed: Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of representing his case.

(6) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.”

10. The petitioner is aggrieved by the refusal to issue his passport, which falls within the provisions of Section 5(2)(c) of the Passports Act, which is an appealable order. Therefore, this Writ Petition is dismissed. However, it is made clear that if any appeal is filed by the petitioner, the same shall be disposed of as expeditiously as possible not later than three months from the date on which the appeal is filed. No costs.

20.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

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P.T.ASHA, J.

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To

1.The Government of India,
New Delhi,
By its Secretary,
Foreign Affairs,
New Delhi.

2.The Passport Officer,
Tiruchirappalli.

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Dated: 20.06.2023