



W.P.(MD) No.5264 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.5264 of 2020

J.Varghese

.. Petitioner

Vs.

1.The Regional Passport Office,
Bharathi Ula Veedhi,
Race Course Road,
Madurai-625 002.

2.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.

.. Respondents

*[R2 – impleaded vide order dated
12.03.2020 in W.P.(MD) No.5264 of 2020]*

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondent to issue Passport to the petitioner by processing his File No.MD2072267524119 by considering his representation dated 01.02.2020.

For Petitioner : Mr.B.Vinothkumar



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For R1 : Mr.V.Malaiyendran
Central Govt. Standing Counsel

For R2 : Mr.T.Amjadkhan
Government Advocate

ORDER

This writ petition is filed for a mandamus directing the respondents to issue passport to the petitioner by processing his file bearing No.MD2072267524119 and considering his representation dated 01.02.2020.

2. It is the case of the petitioner that he had made an application for issue of passport to the first respondent and he had also personally appeared before him and produced all the relevant documents in support of his request. The first respondent had assured the petitioner that the passport would be despatched at the earliest. However, by letter dated 23.07.2019, the first respondent had informed the petitioner that there was an adverse police verification reported against the petitioner and therefore, the passport could not be issued to him, while the proceedings are pending.



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3. It is the further case of the petitioner that only an FIR dated 11.05.2018 is pending and the allegation in the FIR is that during the election of the Christian Diocese Management, there were a group clash and a complaint was lodged against 51 persons, in which the petitioner was arrayed as the second accused. Therefore, he would submit that a mere pendency of an FIR cannot be the basis for denying his passport.

4. No counter affidavit has been filed by the respondents. However, they would submit that no criminal case has been registered except for a charge sheet against the petitioner for which reason, he has not been issued with the passport.

5. The learned counsel for the petitioner had produced a judgment of a Division Bench of this Court in *Arumugam Vs. The Regional Passport Officer, Madurai Region Passport Officer [W.A.(MD) No.301 of 2018, dated 27.03.2018]*, wherein the Division Bench after considering the various judgments with reference to the question as to whether mere pendency of a charge sheet, without the concerned



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Magistrate taking cognizance, would amount to pendency of a criminal proceedings. The Bench observed that merely because a charge sheet has been filed it does not amount to pendency of a criminal proceedings, since the concerned Magistrate is yet to take cognizance of the offences. In such circumstances, the Bench had directed the respondent therein to process the passport application in accordance with law and communicate the decision taken to the petitioner.

6. In the light of the above referred judgment of the Division Bench of this Court, this writ petition is disposed of. The first respondent is directed to process the passport application of the petitioner bearing File No. MD2072267524119 submitted by the petitioner in accordance with law and a decision shall be taken within a period of six weeks from the date of receipt of a copy of this order. No costs.

15.03.2023

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



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To

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2.The Inspector of Police,
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Kanyakumari District.



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P.T.ASHA, J.

abr

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