



W.P(MD)No.5139 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5139 of 2022

Saravanan

... Petitioner

Vs.

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

2.The Secretary,
Ministry of Home Affairs,
Government of India,
New Delhi.
(R2 is suo motu impleaded vide order
dated 22.11.2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the Respondent to issue passport to the petitioner on his application dated 21.01.2022 in Ref No.MD1063906809922 and Letter Ref No.SCN/312186335/22 by considering on his explanation dated 13.03.2022 within time frame fixed by this Court.

For Petitioner : Mr.T.Vadivelan

For Respondents : Mr.K.Govindarajan
DSGI
assisted by Mr.D.Saravanan for R1 & R2



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ORDER

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Heard both sides.

2. The petitioner was born in Srilanka. His parents are also Srilankan citizens. They came to India as refugees. The petitioner is presently residing at Madurai. The petitioner needs passport to go abroad for prosecuting her studies.

3. The learned DSGI submitted that there are certain difficulties in considering the said request. When a similar situation arose in W.P.(MD)No. 27893 of 2022, vide order dated 30.01.2023, I disposed it of in the following terms:-

“6.I was wondering if there was a way out. Advocate Shri.Arun Balaji, who was present in the court drew my attention to Section 20 of the Passports Act, 1967.

The said provision reads as follows:

“Issue of passports and travel documents to persons who are not citizens of India.-Notwithstanding anything contained in the foregoing provisions relating to issue of a passport or travel document, the Central Government may issue, or cause to be issued, a passport or travel document to a person who is not a citizen of India if that Government is of the opinion that it is necessary so to do in the public interest.”

The reason for incorporating the aforesaid provision is set out in Clause 20 of Objects and Reasons in the following terms :

“Under this clause, a passport can be refused on the ground that the applicant



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is not a citizen of India. But, in special cases, having regard to international convention and usage, it may become necessary for the Government to issue a passport or travel document to a person who is not a citizen of India. This clause seeks to give necessary powers to the Central Government in this behalf.”

The above provision empowers the Central Government to issue passport or travel document even to a non-citizen. Any power is coupled with duty. Parliament in its supreme wisdom chose to incorporate such a provision to deal with situations such as the one on hand. Of course, one requirement must be satisfied. The Central Government must be of the opinion that it is necessary so to do in the public interest. The question is whether the said power deserves to be exercised in this case.”

4. The same approach can be adopted in the present case also. The petitioner is permitted to apply to the first respondent under Section 20 of the Passports Act. The first respondent can carry out the usual formalities and if there is no other legal impediment, shall issue travel document to the petitioner under the aforesaid provision. The entire exercise shall be completed within a period of four months from the date of submission of an appropriate application by the petitioner.

5. The Writ Petition is disposed of accordingly. No costs.

14.12.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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