



WP (MD) No. 7280 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.7280 of 2023

S.Mary Pushpa Latha

... Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Street,
Race Course Road,
Madurai District.

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

3.The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 1st respondent to renew the petitioner's passport in Passport No.J2713117 about the file No. MD4074799712322 dated 09.12.2022 pending on the file of the 1st respondent Authorities, by considering the petitioner's representation dated 13.12.2022.



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For petitioner : Mr. Balaji Rajaram. V
For Respondent : Mr. A. Uthaman,
No. 1 Central Govt. Standing Counsel
For Respondent : Mr. P. Kottaichamay,
No. 2 Government Advocate (Crl Side)

ORDER

The petitioner's application for renewal of passport has not been considered by the 1st respondent/ the Passport Officer, on the ground that an FIR is pending as against this petitioner.

2. The learned Counsel for the petitioner submits that the petitioner has made an application for renewal of passport on 09.12.2022. However the petitioner's application has not been considered by the 1st respondent so far. Therefore, this writ petition is filed.

3. The learned Counsel for the 1st respondent submits that the petitioner has involved in a case in Crime No. 237 of 2022 on the file of the 2nd respondent.

4. The learned Government Advocate (Crl Side) appearing for the 2nd respondent submits that the investigation in Crime No. 237 of 2022 has been completed, final report is filed and it is taken on file in C.C. No. 611 of 2023 on the file of the Judicial Magistrate No. II, Nagercoil.



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5. The Passport Authority can refuse the passport and any travel documents under Section 6 of the Passport Act, 1967. Section 6(2)(F) of the Act would be relevant and the same is extracted as under:-

“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 -

...

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

6. The above provision enables the Passport Authority to refuse the passport or travel document to an applicant on the ground that proceedings in respect of an offence alleged to have been committed by the applicant is pending before a Criminal Court.



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7. The Ministry of External Affairs, Government of India, has issued a statutory notification in GSR.570(E) dated 25.08.1993 with certain guidelines by providing relief to those applicants against whom criminal proceedings are pending before the Courts that they can obtain the passport by obtaining No Objection Certificate from the concerned Court and also by filing an undertaking as prescribed in the notification.

8. Ordinarily, the duration of a passport as per Rule 12 of the Passport Rules is for a period of 10 years. In the event if the applicant is facing any criminal proceedings, the passport may be issued by restricting the period. Therefore, the Passport Authority is not justified in not deciding the application filed by the petitioner for renewal of passport by referring the pendency of any criminal case before the Court.

9. Accordingly, this writ petition is disposed of with the following directions:-

i) The petitioner shall file an affidavit of undertaking along with substantive sureties to ensure his availability for the trial, before the concerned Court where the case is pending. The Court, on satisfaction and after ensuring his availability



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for the trial, shall issue a No Objection Certificate to the petitioner enabling him to get his passport renewed.

ii) The petitioner, thereafter, shall file an affidavit under GSR.570(E) along with a No Objection Certificate obtained from the concerned Court before the Passport Authority. On such presentation of the application, the Passport Authority shall consider the same and renew the passport for a temporary period depending upon the requirement. No costs.

11.09.2023

dsk

To

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B.PUGALENDHI, J.

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