



WP(MD)No.7841 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Sundareswaran

... Petitioner

v.

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

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Inspector of Police,
Tallakulam Police Station,
Madurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to issue passport by considering the petitioner's application in No.MD1075027649323 dated 25.03.2023 within a stipulated time limit.



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For Petitioner : Mr.S.Muthu Saravanan

For Respondents : Mr.K.R.Laxman,
Central Government Standing Counsel
for R.1

Mrs.D.Farjana Ghoushia,
Special Government Pleader
for R.2, R.3

ORDER

The petitioner claims that he is a Member in Junior Chamber International and a National Trainer. He obtained a passport in the year 2006. The passport got expired on 23.04.2016 and he applied for renewal of the same. It was not considered and therefore, he has filed this writ petition.

2.It appears that a criminal case has been lodged as against the petitioner by way of a private complaint before the Chief Judicial Magistrate, Madurai, in P.R.C.No.2 of 2016. The case is now committed before the Court of Sessions in S.C.No.15 of 2017 and pending before the I Additional Sessions Court, Madurai. By citing the pendency of the criminal case, the petitioner's renewal application is not considered.



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3.Learned Counsel for the petitioner submitted that the elections for Junior Chamber International is scheduled to be conducted shortly and the petitioner is contesting in the election. The age proof document which is required for contesting the election is the passport. Therefore, the petitioner sought for renewal of passport.

4.Learned Counsel for the petitioner further submitted that the petitioner is not intending to go abroad and that he is even prepared to file an affidavit of undertaking before the Court that after producing the passport for the purpose of age proof for contesting the elections before the Junior Chamber International, the petitioner would surrender the passport till the disposal of S.C.No.15 of 2017. Therefore, he prayed for appropriate orders.

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:-



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“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.

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



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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 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



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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.

There shall be no order as to costs.

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

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B.PUGALENDHI, J.

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