



WP(MD)No.13118 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD).No.13118 of 2023

Satham Hussain

... Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office,
Madurai,
Bharathi Ula Veethi,
Race Course Road,
Madurai -02.

2.State through the Inspector of Police,
Melur Police Station,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to issue a passport to the petitioner by considering his Application No.MD1065119720523 dated 28.02.2023 within the stipulated time that may be stipulated by this Court.



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For Petitioner : Mr.R.Rajamohan
For R1 : Mr.M.Govindarajan
Central Government Standing Counsel
For R2 : Mr.P.Kottaichamy
Government Advocate

ORDER

The petitioner's application for grant of passport was not considered by the Passport Authority, on the ground that a criminal proceeding is pending as against this petitioner before the Criminal Court.

2.Mr.M.Govindarajan, learned Central Government Standing Counsel, who takes notice for the first respondent submits that in view of a criminal case in CC No.502 of 2023, on the file of the Special Court dealing with EC and NDPS Act Cases, Madurai pending as against the petitioner, the respondents have not considered the petitioner's application.



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3.Mr.P.Kottaichamy, learned Government Advocate, who takes notice for the second respondent submits that a case in Crime No. 438 of 2019 for the offences punishable under Sections 8(c), 20(b)(ii) (B) of NDPS Act pending as against this petitioner has now been charge sheeted and taken on file by the Special Court dealing with EC and NDPS Act Cases, Madurai in CC No.502 of 2023.

4.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 -

...



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

5.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.

6.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.



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7. 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 passport by referring the pendency of any criminal case before the Court.

8. 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 obtain the passport.



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- 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 issue passport for a temporary period depending upon the requirement. No costs.

28.07.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes

vrn

To

1.The Regional Passport Officer,
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Madurai, Bharathi Ula Veethi,
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2.The Inspector of Police,
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B.PUGALENDHI, J.

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