



WP (MD) No.14536 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.14536 of 2023

S.Meeran

... Petitioner

Vs

1.The Joint Secretary (C & IC),
The Government of India,
Ministry of External Affairs,
New Delhi.

2.The Regional Passport Officer,
Regional Passport Office,
Government of India,
Ministry of External Affairs,
Bharathi Ula Veethi,
Race Course Road,
Madurai – 625 002.

3.The Inspector of Police,
District Crime Branch,
Ramanathapuram,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records of the 2nd respondent's impugned communication No.1300037-DUB-MDU- dated 26.05.2022 and quash the same and consequently direct the 2nd respondent to issue passport to the petitioner within a period stipulated by this court.



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For petitioner : Mr.S.Atham Ali
For Respondent : Mr.K.Govindarajan,
No.1 Dy.Solicitor General of India
For Respondent : Mr.P.Kottaichamay,
Nos.2 & 3 Government Advocate (Crl Side)

ORDER

The petitioner's application for grant of passport was not considered by the Passport Authority, on the ground that FIR is pending as against the petitioner.

2.The learned Counsel for the petitioner submits that the petitioner has submitted an application for grant of passport and so far it has not been considered by the respondents citing the pendency of the FIR registered as against this petitioner in Crime No.103 of 2018 pending on the file of the 3rd respondent Police Station.

3.The learned Government Advocate (Crl Side) appearing for the 2nd respondent submits that the investigation in Crime No.103 of 2018 has been completed, final report is filed and it is taken on file in C.C.No.140 of 2023 on the file of the Judicial Magistrate -II, Ramanathapuram.



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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 -

...

(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.



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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.

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

7.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 obtain the passport.

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.

11.09.2023

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To

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Government of India,
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B.PUGALENDHI, J.

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