



WP(MD)No.14615 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Kamaludeen

.. Petitioner

v.

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

2.The Commissioner of Police,
O/o.The Commissioner of Police,
Tirunelveli City.

3.The Inspector of Police,
O/o.The Inspector of Police,
City Crime Branch Police Station,
Tirunelveli City.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to reissue the passport to the petitioner by considering his explanation dated 04.01.2023.



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For Petitioner : Mr.S.Nihar Ali

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

Mr.P.Kottaichamy,
Government Advocate (Crl. Side)
for R.2, R.3

ORDER

The petitioner's application for renewal 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.Learned Central Government Standing Counsel for the Passport Authority submitted that they have received adverse remarks during police verification. Therefore, they are yet to take a decision on the petitioner's application.

3.Learned Government Advocate (Crl. Side) for the Police submitted that the petitioner has involved in a case in Crime No.14 of 2021 for the offence u/s. 406, 418, 420 IPC, on the file of the City Crime Branch, Tirunelveli. He further



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submitted that after investigation, charge sheet has been filed before the learned Judicial Magistrate No.1, Tirunelveli and the same has also been taken on file and pending in CC.No.1167 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 -

...

(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.

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



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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 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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To

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B.PUGALENDHI, J.

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