



W.P(MD)No.15609 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.15609 of 2023

Arun Raj Muthusamy

... Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai 625002.

2.The Inspector of Police,
Perundhurai Police Station,
Erode District
(Crime No.732 of 2017).

...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 fresh Passport to the petitioner based on his application vide No.MD2065376008723, dated 18.05.2023 on the basis of the petitioner's representation dated 22.06.2023 within the time limit to be stipulated by this Court.



W.P(MD)No.15609 of 2023

WEB COPY

For Petitioner : Mr.A.B.Jeeva
For R1 : Mr.V.Malaiyendran
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.The learned counsel appearing for the petitioner submits that the petitioner has submitted an application for grant of passport before the passport authorities on 18.05.2023. The passport authorities have issued a show cause notice on 13.06.2023 calling upon the petitioner to offer his explanation with regard to the criminal case pending as against him. The petitioner has appeared before the first respondent and submitted his explanation. However, his application has not been considered so far.



W.P(MD)No.15609 of 2023

WEB COPY

3.Mr.V.Malaiyendran, learned Central Government Standing Counsel, who takes notice for the first respondent submits that based on the adverse police verification report submitted by the second respondent, the petitioner's application has not been processed.

4.Mr.P.Kottaichamy, learned Government Advocate, who takes notice for the second respondent submits that a case in Crime No.732 of 2017 on the file of the Perundurai Police Station for the offences punishable under Sections 279, 304 A of IPC is pending as against the petitioner. He further submits that final report has been filed and the same was taken on file by the Judicial Magistrate Court, Perundurai, Erode in CC No.193 of 2020.

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:-



WEB COPY



W.P(MD)No.15609 of 2023

“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



W.P(MD)No.15609 of 2023

WEB COPY

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 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



W.P(MD)No.15609 of 2023

and after ensuring his availability 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. No costs.

19.09.2023

NCC :Yes/No
Index :Yes/No
Internet:Yes
vrn



W.P(MD)No.15609 of 2023

To
WEB COPY

- 1.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai 625002.

- 2.The Inspector of Police,
Perundhurai Police Station,
Erode District



WEB COPY



W.P(MD)No.15609 of 2023

B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.15609 of 2023

19.09.2023