



W.P.(MD)No.16549 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 10.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.16549 of 2023

Moorthi Chellapandi

... Petitioner

versus

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

2. The Inspector of Police,
Othakadai Police Station,
Madurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the first respondent to issue passport to the petitioner based on his Passport Application No.MD1063311663921 dated 08.03.2021 within a stipulated time that may be fixed by this Court.



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For Petitioner : Mr.S.Sravana Kumar
For R1 : Mr.Karthikeya Venkatachalapathy
Central Government Stand Counsel
For R2 : Ms.D.Farjana Ghoushia,
Special Government Pleader

ORDER

The petitioner has applied for a passport before the first respondent vide application No.MD1063311663921 dated 08.03.2021. Since the same has not been considered so far, the petitioner has filed this writ petition.

2. The learned counsel appearing for the second respondent submits that the petitioner is involved in a case in Crime No.12 of 2020 for the offence punishable under Sections 3 and 4 of Exorbitant Interest Act and 506(i) IPC. In the said case, a charge sheet has also been filed and the same has been taken on file in C.C.No.240 of 2022 on the file of the learned Judicial Magistrate, Melur.



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3. 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.”

4. 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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5. 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.

6. 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.

7. Accordingly, this writ petition is disposed of with the following directions:-



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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.

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.

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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