



WP(MD)No.16921 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.16921 of 2023

Habeeb Rahman

... Petitioner

Vs

- 1.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai -625 002.
- 2.The Inspector of Police,
Dindigul Town West Police Station,
Dindigul.
- 3.The Inspector of Police,
Natham Police Station,
Dindigul.
- 4.The Inspector of Police,
Vadamadurai Police Station,
Dindigul.



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5.The Inspector of Police,
Dindigul Town South Police Station,
Dindigul.

... 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 Temporary Passport to the petitioner for the months of August - September 2023 (two months only) for the Purpose of UMRAH Pilgrimage.

For Petitioner	: Mr.M.Bazeerdeen
For R1	: Mr.M.Karthikeya Venkatachalapathy 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.



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2.Mr.M.Karthikeya Venkatachalapathy, learned Central Government Standing Counsel, who takes notice for the first respondent submits that in view of several cases pending as against the petitioner, the respondents have not considered the petitioner's application.

3.Mr.P.Kottaichamy, learned Government Advocate, who takes notice for the second respondent submits that the petitioner is involved in the following cases, which are pending before the Judicial Magistrate Courts at Dindigul:-

Sl.No.	Name of the Police Station	Crime Nos.	Offences
1.	Dindigul Town South	222/2002	341,324,506(ii) IPC
2.	Dindigul Town South	239/2009	147,148,341,324,307,435 IPC
3.	Dindigul Town South	131/2017	341,143,188 IPC
4.	Dindigul Town South	197/2017	153,153(A), 295(A) IPC
5.	Dindigul Town South	573/2017	143,188 & 4 of TNOPPD Act



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6.	Dindigul Town South	40/2018	4(1) of TNOPPD Act
7.	Dindigul Town South	43/2018	4(1) of TNOPPD Act
8.	Dindigul Town South	44/2018	505(1)(2)(a) IPC r/w 12 of Press Regulation Act.
9.	Dindigul Town South	354/2018	4(1) of TNOPPD Act
10.	Dindigul Town South	589/2018	75 of TNCP Act
11.	Dindigul Town South	630/2018	328 IPC and 20(a) Cigarettes and other tobacco Products Act, 2003
12.	Dindigul Town South	1615/2020	143,269,283,341,IPC
13.	Natham	125/2017	4 of TNOPPD Act
14.	Dindigul Town South	544/2018	298 of Prisoner Manual Rule r/w 42 Prisoner Act 1894

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-



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...

(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.

6.The Ministry of External Affairs, Government of India, has issued a statutory notification in GSR.570(E) dated 25.08.1993 with



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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 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 cases are



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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.

28.07.2023

NCC : Yes / No.
Index : Yes / No.
Internet : Yes
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B.PUGALENDHI, J.

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