



WP (MD) No.16998 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.16998 of 2023

S.Sara Beevi

... Petitioner

Vs

1.The Secretary,
Government of India,
Ministry of External Affairs,
New Delhi.

2.The 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,
Devakottai Taluk Police Station,
Devakottai Taluk,
Sivagangai 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.SCN/309749159/20 dated 19.02.2020



WP (MD) No.16998 of 2023

and quash the same and consequently direct the 2nd respondent to enable the petitioner to travel abroad using the petitioner passport bearing No.U7005528 dated 07.02.2020 within the period as stipulated by this Court.

For petitioner : Mr.S.Atham Ali
For Respondent : No representation
Nos.1 & 2
For Respondent : Mr.P.Kottaichamy
No.3 Government Advocate

ORDER

The petitioner has been issued with passport in Passport No.U7005528. The grievance of the petitioner is that the 1st respondent is attempting to impound the passport citing the pendency of the criminal case registered against this petitioner.

2.The learned Counsel for the petitioner submits that the petitioner has been called for to offer his explanation vide the impugned notice with regard to the criminal case registered against him and the respondents are taking steps to impound the petitioner's passport. Hence this writ petition is filed.



WP (MD) No.16998 of 2023

3. There is no representation for the 1st and 2nd respondents.

4. The learned Government Advocate (CrI Side) appearing for the respondents submits that the petitioner has involved in Crime No.206 of 2019 on the file of the 2nd respondent Police and final report has been filed in CC.No.132 of 2020 before the learned Judicial Magistrate Court, Devakottai.

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:-

“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.”



WP (MD) No.16998 of 2023

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



WP (MD) No.16998 of 2023

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 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.

11.09.2023

dsk



WP (MD) No.16998 of 2023

To

1. The Secretary,
Government of India,
Ministry of External Affairs,
New Delhi.
2. The 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,
Devakottai Taluk Police Station,
Devakottai Taluk,
Sivagangai District.



WEB COPY



WP (MD) No.16998 of 2023

B.PUGALENDHI, J.

dsk

WP(MD)No.16998 of 2023

11.09.2023