



W.P.(MD)No.17443 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P.(MD)No.17443 of 2023**

**and**

**W.M.P.(MD)No.14619 of 2023**

P.Krishna Moorthy

... Petitioner

versus

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

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,  
seeking for the issuance of Writ of Certiorarified Mandamus, to call for  
the records pertaining to the impugned notice in File  
No.MD1075120659723 dated 08.03.2023 passed by the respondent



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No.1 and quash the same as illegal and consequently, for a direction directing the Respondent No.1 to renew the Passport of the petitioner in passport No.L2317216 within the time stipulated by this Court.

For Petitioner : Mr.J.Udhayakumar  
For R1 : Mr.K.Govindarajan,  
Deputy Solicitor General of India  
For R2 : Mr.P.Kottaichamy,  
Government Advocate

### **ORDER**

The petitioner was issued with a passport in the year 2013 and it expired on 03.06.2023. Therefore, he approached the first respondent and submitted an application for renewal of his passport. However, the said application has not been considered by the first respondent, on the ground that a criminal case is pending as against the petitioner.

2. The learned counsel appearing for the second respondent submits that the petitioner is involved in a case in Crime No.153 of



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2015 registered on the file of the second respondent for the offences punishable under Sections 120(b), 409, 467, 468, 471 IPC r/w. 7(i)(a) (ii) of EC Act 1955 r/w. 109 IPC. In the said case, final report has already been filed and the same has been taken on file in C.C.No.44 of 2016 on the file of the learned Judicial Magistrate-III, Madurai and now, the case has been split up and it is pending in C.C.No.549 of 2023.

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 -*

...



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*(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.

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.



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

7. 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.



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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. No costs. Consequently, connected miscellaneous petition is closed.

**20.07.2023**

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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**B.PUGALENDHI, J.**

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