



WP(MD)No.17771 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.17771 of 2023

B.Ranjitha

... Petitioner

v.

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

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

3.The State, rep. by the Inspector of Police,
Melavalavu Police Station,
Madurai District.

4.The Inspector of Police,
Kottampatti Police Station,
Madurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking issuance of a Writ of Mandamus directing the second respondent
to extend her husband's new passport No.X9923507 for remaining period



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of her husband's earlier old passport No.U4807576 based on her husband's online application No.ARN:23-2002513958 dated 19.06.2023 to the High Commission of India, Wisma Hrih Lotus, Level 1, 442, Jalan Pahang, Setapak 53000, Kuala Lumpur, Malaysia.

For Petitioner : Mr.K.Mahendran

For Respondents : Mr.K.Govindarajan,
Deputy Solicitor General of India
for R.1, R.2

Mr.P.Kottaichamy,
Government Advocate (Crl. Side)
for R.3, R.4

ORDER

The petitioner's husband, Balamurugan, obtained a passport in the year 2020, with validity upto 22.10.2030. The petitioner's husband is working at Malaysia. He lost his passport and applied for a fresh one. That application was not considered, in view of the pendency of a criminal case. Therefore, the petitioner's husband approached this Court by filing WP(MD)No.5115 of 2023. This Court, after taking note of the fact that a criminal case is pending against the petitioner's husband in STC.No.75 of 2021 before the Judicial Magistrate Court, Melur, by order dated



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20.03.2023, directed the Passport Authority to issue a fresh passport to the petitioner's husband within a period of six weeks. Accordingly, a fresh passport was issued to the petitioner's husband, however, restricting the same for a period of one year, ie., upto March, 2024.

2.Learned Counsel for the petitioner submitted that the work permit would be issued by the employer, provided the passport should have a validity of minimum two years period. Since the passport of the petitioner's husband expires by March, 2024, he could not apply for the work permit.

3.The existing work permit of the petitioner's husband is expiring by this week and therefore, the petitioner's husband has filed a writ petition in WP(MD)No.17618 of 2023 to quash the passport and requested for a fresh passport for a period of two years. On the directions of this Court, the said writ petition was withdrawn on 20.07.2023 and the present writ petition was filed by the petitioner / wife for a mandamus to renew her husband's passport.



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4.Learned Government Advocate appearing for the Police submitted that a criminal case is pending against the petitioner before the learned Judicial Magistrate, Melur, in STC.No.75 of 2021, for the offence under the Tamil Nadu Gaming Act.

5.Learned Deputy Solicitor General of India appearing for the Passport Authority submitted that they have received adverse remarks during the police verification. He further submitted that since the case is pending before the Court concerned, as per Section 6(2) of the Passport Act, the Passport Authority can refuse the issuance of passport. In any event, if the petitioner's husband approaches the Authority along with the No Objection Certificate from the concerned Court, the application would be processed accordingly.

6.This Court considered the rival submissions made on either side and also perused the available materials.



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7.It appears that a criminal case has been registered as against the petitioner in Crime No.1236 of 2020 for the offence under Section 12 of the Tamil Nadu Gaming Act and the same is now pending before the learned Judicial Magistrate, Melur, in STC.No.75 of 2021.

8.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.”



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9.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.

10.However, 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.

11.Here, the petitioner's husband is currently employed and staying at Malaysia and he filed the earlier writ petition in WP(MD)No.17618 of 2023 from Malaysia. After taking note of the fact that the competent Court has already taken cognizance of the case registered as against the petitioner's husband in STC.No.75 of 2021, this Court in WP(MD)No.5115 of 2023 dated 20.03.2023 directed the Passport Authority to issue a fresh



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passport. Since the passport so issued got a validity till March, 2024, ie.,

one year, the petitioner's husband could not get his work permit extended.

If the passport is not extended for a period of two years, then the petitioner's husband may loose his job at Malaysia and the entire family would be put into difficulty.

12.Considering the facts and circumstances of the case, nature of offence and the foregoing discussions, this Court is issuing the following directions:-

i) The petitioner's husband shall file an affidavit of undertaking before the Passport Authority attached with the Embassy at Malaysia, as required under GSR.570(E) dated 25.08.1993, within a period of one week from today.

ii) The petitioner's husband shall also give an undertaking that he would appear before the concerned Magistrate within a period of eight months and shall ensure his availability for the completion of the trial before the Judicial Magistrate Court, Melur, in STC.No.75 of 2021.

iii) On such presentation, the Passport Authority shall consider the



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case of the petitioner's husband for renewal and extend the passport for a period of three years.

13.Learned Deputy Solicitor General of India appearing for the first respondent / Passport Authority shall inform the officials concerned accordingly.

With the above directions, this writ petition stands disposed of.

There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

21.07.2023

Note:

1. Issue order copy by today itself.
2. Upload a copy of the order in the official website immediately.
3. Mark a copy of this order to Mr.K.Govindarajan, learned Deputy Solicitor General of India.

To

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



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2.The Regional Passport Officer,
Bharathi Ula Veethi,
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B.PUGALENDHI, J.

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