



W.P.(MD)No.20010 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.20010 of 2023

Gnanavel Subramanian

... Petitioner

versus

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

2. The Superintendent of Police,
Theni District.

3. The Inspector of Police,
Bodi Town Police Station,
Theni 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 re-issue the passport to the petitioner in file No.MD01C5014413722 and connected Passport No.K0588108 forthwith by considering his representation dated 02.08.2023.



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For Petitioner : Mr.V.Thirumal
For R1 : Mr.P.Sundaravadivel,
Central Government Standing Counsel
For R2 and R3 : Mr.P.Kottaichamy,
Government Advocate

ORDER

The petitioner was issued with a Passport bearing No.K0588108 and the same was expired on 28.12.2021. Therefore, he applied for renewal of passport before the first respondent on 04.03.2022. But, the first respondent, based on the police verification report, refused to entertain his application on the ground that he is involved in several criminal cases.

2. Mr.P.Sundaravadivel, learned Central Government Standing Counsel, who takes notice for the first respondent, submits that in view of several criminal cases pending as against the petitioner, the first respondent has not considered the petitioner's application for re-issuance of passport.



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WEB COPY 3. Mr.P.Kottaichamy, learned Government Advocate, who takes notice for the respondents 2 and 3, submits that the following criminal cases are pending as against this petitioner:-

Sl.No.	Name of the Police Station	Crime Nos.	Offences	Stage of the case
1.	Bodi Town Police Station	151/2023	Section 4A(1b) of TNOPPD Act	STC No.744 of 2023 on the file of the JM, Bodi
2.	Bodi Town Police Station	47/2022	Sections 143, 269 IPC and Section 3 of ED Act 1897 and Section 51 of DM Act 2005	NTF
3.	Bodi Town Police Station	152/2021	Sections 143, 269, 286, 341 IPC @ 143, 286, 341 IPC	NTF
4.	Bodi Town Police Station	145/2021	Sections 143, 286, 341 IPC	NTF
5.	Bodi Town Police	143/2021	Sections 143, 269, 341 IPC @ 143, 341 IPC	NTF
6.	Kurangani Police Station	55/2022	Section 145 Cr.P.C.	UI

He further submits that out of six cases, in one case, namely, Cr.No.151 of 2023, final report has been taken and the same has been taken on file



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in STC No.744 of 2023 on the file of the learned Judicial Magistrate, Bodi and in four cases, namely, in Cr.Nos.47 of 2022, 1512 of 2021, 145 of 2021 and 143 of 2021, final reports have been filed, however, the same have not been taken on file and in the remaining one case, i.e. in Cr.No.55 of 2022, investigation is going on.

4. This Court considered the rival submissions.

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 -

...



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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.”

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 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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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.

8. In this case, the petitioner is involved in six cases, out of which, in a case in Cr.No.51 of 2023, final report has been filed and the same has been taken on file in STC No.744 of 2023 on the file of the learned Judicial Magistrate, Bodi.

9. Therefore, 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



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renewed.

WEB COPY 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 renew the passport for a temporary period depending upon the requirement. No costs.

17.08.2023

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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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