



W.P(MD)No.20279 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 19.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20279 of 2023

A.Tamilselvan

... Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport Office,
New Municipal Complex,
Thillai Nagar 7th cross,
Tiruchirappalli – 620 018.

2.State represented by
The Inspector of Police,
OrathanaduPolice Station,
Thanjavur District.

...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 consider the petitioner's online application dated 20.06.2023 and consequently direct the first respondent to reissue passport within the stipulated time that may be fixed by this Court.



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For Petitioner : Mr.C.M.Arumugam
For R1 : Mr.B.Raja Saravanan
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.

2.The learned counsel appearing for the petitioner submits that the petitioner's passport got missed and he lodged a complaint in the Complaint portal of Tamil Nadu Police Department and also before the second respondent. Pending enquiry, the petitioner has applied for re-issuance of passport before the first respondent. However, the same has not been considered by the passport authorities though the petitioner has submitted the lost report issued by the Tamil Nadu Police Department. Hence, this petition.



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3.Mr.B.Rajesh Saravanan, learned Central Government Standing Counsel, who takes notice for the first respondent submits that based on the adverse police verification report submitted by the second respondent, the petitioner's application has not been processed.

4.Mr.P.Kottaichamy, learned Government Advocate, who takes notice for the second respondent submits that the petitioner has involved in a criminal case in Crime No.136 of 2017 on the file of the Orathanadu Police Station for the offences punishable under Sections 294b, 352, 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 1998. He further submits that final report has been filed and the same was taken on file by the Judicial Magistrate Court, Orathanadu in CC No. 133 of 2017.

5.The Passport Authority can refuse the passport and any travel documents under Section 6 of the Passport Act, 1967. Section



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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.”

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



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

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



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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 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.

19.09.2023

NCC :Yes/No
Index :Yes/No
Internet:Yes
vrn



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B.PUGALENDHI, J.

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