



W.P.(MD)No.20479 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.20479 of 2023

Battanimiran

... Petitioner

versus

1. The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai – 2.

2. State through the Inspector of Police,
RS Mangalam Police Station,
Ramanathapuram 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 a passport for changing the address particulars by considering the petitioner's application No.MD1075267913523 dated 17.04.2023.



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For Petitioner : Mr.V.Dhana Aravindh Balaji
For R1 : Mr.D.Saravanan,
Central Government Standing Counsel
For R2 : Mr.P.Kottaichamy,
Government Advocate

ORDER

The petitioner is issued with a passport in Passport No.S1992289 and it expires on 18.06.2028. Now, he has changed the address and submitted an application to the first respondent to reissue his passport by changing the address. However, the said application has not been considered by the first respondent on the ground that he is involved in three criminal cases. Therefore, the petitioner is before this Court.

2. The learned counsel appearing for the first respondent submits that on the police verification, it appears that the petitioner is involved in three criminal cases. Therefore, the petitioner was called upon to offer his explanation. However, the petitioner, without appearing before the first respondent, has filed this writ petition.



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3. The learned Government Advocate (Crl. Side) appearing for the second respondent, on instructions, submits that the petitioner is involved in the following cases:

(i) Cr.No.223 of 2021 u/s. 147, 269, 143, 341, 291 IPC r/w. 51(b) of Disaster Management Act & 3 of Epidemic and T.N.Public Health Act on the file of the RS Mangalam Police Station;

(ii) Cr.No.56 of 2022 u/s. 341, 143, 290 and 291 IPC on the file of the Devipattinam Police Station;

(iii) Cr.No.76 of 2020 u/s. 143, 153, 341, 290, 504, 505(1)(b), 505(1)(c) IPC on the file of the Kenikarai Police Station; and

(iv) Cr.No.456 of 2019 u/s. 46(1B) TNOPPD Act on the file of the Kenikarai Police Station.

He further submits that out of four cases, in one case, i.e. in Crime No. 56 of 2022, charge sheet has been filed and the same has been taken on file as STC No.2281 of 2022 on the file of the Judicial Magistrate No.I, Ramanathapuram. The other cases are still under investigation.



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WEB COPY 4. This Court considered the rival submissions and perused the materials available on record.

5. The petitioner is issued with a passport in Passport No.S1992289 and it expires on 18.06.2028. The petitioner has now approached the first respondent for changing his address in the existing passport. However, in the mean time, it appears that the petitioner involved in four criminal cases, out of which, one case in Cr.No.56 of 2022 has been charge sheeted and the same has been taken on file as STC No.2281 of 2022 on the file of the Judicial Magistrate No.I, Ramanathapuram and the case is posted for appearance of the petitioner on 31.08.2023. The other three cases are under investigation.

6. If there is any change in existing personal particulars, the Passport Authority has to reissue the Passport and therefore, the procedures for reissuance of Passport has to be adopted for changing



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the address also.

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7. 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.”

8. 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



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the applicant is pending before a Criminal Court.

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9. 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.

10. Therefore, the Passport Authority is not justified in not considering the application filed by the petitioner for reissuance of passport by referring the criminal case.

11. Accordingly, this writ petition is disposed of with the following directions:-

i) The petitioner shall file an affidavit of undertaking along with



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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 and reissue the passport by changing the address.

28.08.2023

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NCC : Yes / No.
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Internet : Yes / No.



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B.PUGALENDHI, J.

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