



W.P(MD)No.20393 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20393 of 2023

Prabu

... Petitioner

Vs

1.The Regional Passport Officer,
Regional Passport office,
Tiruchirapalli,
Municipal Water Tank Building,
W.B.Road,
Tiruchirappalli – 620 008.

2.The Inspector of Police,
Madukkur Police Station,
Thanjavur District,
Crime No.156 of 2016.

...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 herein to renew and re-issue the passport in favour of the petitioner on the basis of the petitioner's reissue passport application No.TN-1073064114920, dated 20.10.2020 within a time stipulated by this Court.



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For Petitioner : Mr.B.Jameelarasu
For R1 : Mr.S.Paramasivan
Central Government Standing Counsel
For R2 : Mr.P.Kottaichamy
Government Advocate

ORDER

The petitioner has obtained a passport on 11.05.2011 and the same was expired on 10.05.2021. Therefore, the petitioner has approached the first respondent for reissuance of passport on 20.10.2020 by paying the necessary fee. The said application has not been considered by the passport authorities in view of the police verification report. Hence, this writ petition.

2.Mr.S.Paramasivan, learned Central Government Standing Counsel, who takes notice for the first respondent submits that he is not having any instructions as to whether the application of the petitioner has been disposed of or not.

3.Mr.Kottaichamy, learned Government Advocate, who takes notice for the second respondent submits that this petitioner is



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involved in a criminal case in Crime No.156 of 2016 and the same is now pending before the Judicial Magistrate Fast Track Court, Pattukottai in CC No.71 of 2022 for the offences punishable under Sections 294b, 506(i) IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 1998.

4.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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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.

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. Therefore, the Passport Authority is



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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.

8. 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.570(E) along with a No Objection Certificate obtained from the concerned Court before the Passport Authority. On such presentation of the



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application, the Passport Authority shall consider the same and renew the passport for a temporary period depending upon the requirement. No costs.

22.08.2023

NCC :Yes/No

Index :Yes/No

Internet:Yes

vrn

To

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B.PUGALENDHI, J.

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