



W.P(MD)No.20639 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20639 of 2023 and
WMP(MD) No.17071 of 2023

Dr.Prince Sanjeevi Yoganath

... Petitioner

Vs

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

2.The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned letter Ref No.SCN/315286839/23, dated 17.07.2023 issued by the first respondent and quash the same and consequently direct the first respondent to issue passport to the petitioner within a time frame fixed by this Court.



W.P(MD)No.20639 of 2023

For Petitioner : Mr.J.Karthick
For R1 : Mr.A.Srinivasan
Standing Counsel
For R2 : Mr.Vaikkam Karunanidhi
Government Advocate

ORDER

The passport issued to the petitioner expires on 16.09.2023. Hence, he applied for re-issuance of passport on 20.06.2023. The petitioner was called upon by the first respondent by his notice dated 17.07.2023 to offer his explanation based on the police verification report submitted by the second respondent. In the said communication, it has been stated that this petitioner is involved in a criminal case and he was expected to offer his explanation. The petitioner, instead of offering his explanation before the first respondent has filed this writ petition, challenging the same.

2. Mr.A.Srinivasan, learned Standing Counsel, who takes notice for the first respondent submits that it is only a show cause notice calling upon the petitioner to offer his explanation, based on the report of the second respondent. In the event, if the



W.P(MD)No.20639 of 2023

petitioner provides his explanation, it would be considered in accordance with law.

3.Mr.Vaikkam Karunanidhi, learned Government Advocate who takes notice for the second respondent submits that the petitioner is involved in a case in Crime No.163/2022 on the file of the Kadayanallur Police Station for the offences punishable under Sections 279 and 304A of IPC. After completion of investigation, Final report has also been filed before the Judicial Magistrate Court, Tenkasi and the same is pending in CC No.478 of 2023.

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



W.P(MD)No.20639 of 2023

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.”

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.



W.P(MD)No.20639 of 2023

WEB COPY

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 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.



W.P(MD)No.20639 of 2023

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. Consequently, connected Miscellaneous Petition is closed.

31.08.2023

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

To

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

2.The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.



WEB COPY



W.P(MD)No.20639 of 2023

B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.20639 of 2023 and
WMP(MD) No.17071 of 2023

31.08.2023