



WP(MD)No.20899 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Sharik Ahamed

.. Petitioner

v.

1.The Union of India,
Rep. by its Secretary,
Ministry of External Affairs,
Central Secretariat,
New Delhi.

2.The Consulate General of India,
Al Hamriya,
P.O. Box 737, Dubai,
United Arab Emirates.

3.The Regional Passport Office,
Regional Passport Office,
Madurai.

4.The Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the second respondent to pass orders renewing the passport of the petitioner corresponding to his passport in W1407685 by considering the petitioner's application in renewal application no.23-2002982504 dated 24.07.2023 in the light of the order passed by this Court in WP.No.12515 of 2022 dated 12.05.2022, within a stipulated time limit.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.K.Maharajan,
Central Government Standing Counsel
for R.1 to R.3

Mr.P.Kottaichamy,
Government Advocate (Crl. Side)
for R.4

ORDER

The petitioner is working at Dubai and his passport expires by 25.09.2023. There was a property dispute amongst his family members and in this regard, a criminal case was registered in Crime No.1019 of 2020 on the file of the fourth respondent police. Final report has also been filed in the said criminal case and it is now pending before the Judicial Magistrate



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Court, Padmanabapuram. For the purpose of contesting the case before the concerned Magistrate Court, the petitioner applied for a temporary passport to return to India. It was not considered by the Passport Authority, on the ground that a criminal proceeding is pending as against this petitioner. Therefore, the petitioner has moved this writ petition.

2.Learned Central Government Standing Counsel appearing for the Passport Authority sought time for getting instructions.

3.Learned Government Advocate (Crl. Side) appearing for the Police submitted that the petitioner has involved in a case in Crime No.1019 of 2020 for the offence u/s.448, 294(b), 323, 427, 506(i) IPC, on the file of the Thuckalay Police Station, Kanyakumari. He further submitted that after investigation, charge sheet has been filed before the learned Judicial Magistrate, Padmanabapuram and the same has also been taken on file and pending in CC.No.345 of 2022.

4.This Court considered the submissions made on either side.



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5.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.

6.Here, the petitioner is in Dubai. He claims that for a property dispute amongst the family members, a criminal case has been registered. In any event, he is inclined to return to India and contest the criminal case. For that purpose, the petitioner seeks a temporary passport.

7.Considering the facts and circumstances of the case, this Court is issuing the following directions:-

i) The petitioner shall file an affidavit of undertaking before the Passport Authority attached with the Indian Embassy at Dubai, as required under GSR.570(E) dated 25.08.1993.



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ii) The petitioner shall also give an undertaking that he is returning to India only for the purpose of contesting the trial in C.C.No.345 of 2022.

iii) On such presentation, the Passport Authority shall consider the case of the petitioner and issue temporary passport (one-time passport) to the petitioner enabling him to travel to India.

iv) Pending the criminal proceedings, if the petitioner is inclined to go Abroad, he shall get his passport renewed by filing an affidavit under GSR.570(E) along with a No Objection Certificate obtained from the concerned Court where the case is pending, 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.

With the above directions, this writ petition is allowed. There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
Internet : Yes
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B.PUGALENDHI, J.

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To

- 1.The Regional Passport Office,
Regional Passport Office,
Madurai.
- 2.The Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.

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