



W.P.(MD)No.15280 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.15280 of 2016

and

W.M.P.(MD)No.11245 of 2016

Prabaharan

... Petitioner

versus

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

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the impugned Letter Ref.No.IMP/304076457/16 in File No.MD1078851476715 dated 31.05.2016 in impounding the passport No.N3520673 issued by the respondent and quash the same as illegal.

For Petitioner : Mr.G.Mariappan

For Respondent : Mr.K.Govinda Rajan,
Deputy Solicitor General



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ORDER

This writ petition has been filed as against the Letter Ref.No.IMP/304076457/16 issued by the respondent dated 31.05.2016 impounding the passport No.N3520673 issued in favour of the petitioner on the ground that a criminal case in Cr.No.369 of 2015 is pending as against the petitioner.

2. The learned counsel appearing for the petitioner submits that the case registered against the petitioner in Cr.No.369 of 2015 for the offence punishable under Section 286, 304(2) IPC and under Section 9(B), 1(B) of Indian Explosive Act, is taken on file in S.C.No.170 of 2017 on the file of the Principal District and Sessions Court, Srivilliputhur and the trial is pending.

3. 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:-



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“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.”

4. 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.

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



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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. 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.

7. 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 obtain the



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passport.

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570(E) along with a No Objection Certificate obtained from the concerned Court before the Passport Authority. On filing of such No Objection Certificate, the respondent shall not impound the passport of the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

20.10.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
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B.PUGALENDHI, J.

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