



W.P(MD)No.22649 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22649 of 2023

N.Selvan Jebaraj

... Petitioner

Vs

1.The Regional Passport officer,
O/o, The Regional Passport office,
Bharathiula Veethi,
Race Course Road,
Madurai-625 002.

2.The State Rep by
The Inspector of Police,
District Crime Branch,
Tuticorin.

...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 to issue passport based on the petitioner's application No.File No.MD01C5046453923 daetd 26.05.2023.

For Petitioner	: Mr.S.Siva Thilakar
For R1	: Mr.R.Arjuna Rajan Standing Counsel
For R2	: Mr.P.Kottaichamy Government Advocate



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ORDER

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The petitioner with a grievance that his application for renewal of passport was not considered by the first respondent has filed this writ petition.

2.Mr.R.Arjuna Rajan, learned Standing Counsel, who takes notice for the first respondent submits that based on an adverse report received from the second respondent, they have not considered the petitioner's application.

3.Mr.P.Kottaichamy, learned Government Advocate, who takes notice for the second respondent submits that two criminal cases are pending as against this petitioner in CC No.247 of 2023 for the offences punishable under Sections 406, 420 IPC @ 406, 420, 468, 471, 120B r/w 34 IPC and CC No.1637 of 2023, for the offences punishable under Sections 406, 420, 467, 468, 471,120B IPC r/w 34 on the file of the Judicial Magistrate Court No.IV, Tuticorin.



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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.”

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.



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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 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.



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

15.09.2023

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



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B.PUGALENDHI, J.

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