



WP (MD) No.22907 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.22907 of 2023

Ashik Abdul Azeez

... Petitioner

Vs

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

2.The Superintendent of Police,
Nagercoil,Kanyakumari District.

3.The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District,
(In Crime No.22 of 2019).

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to consider the petitioners application for renewal dated 14.08.2023 and thereby renew the petitioner passport by considering



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the petitioners explanation dated 08.09.2023, within the time frame that may be stipulated by this Court.

For petitioner : Mr.M.Mohamed Riyaz
For R1 : Mr.H.Velavadhas
Standing Counsel
For R2 :Mr.P.Kottaichamy
Government Advocate

ORDER

The case of the petitioner is that he was issued with a passport and it expires on 08.12.2023. Hence, he submitted an application for renewal of passport on 14.08.2023. However, the same was not considered by the passport authorities.

2. The learned counsel appearing for the petitioner submits that due to matrimonial dispute between the petitioner and his wife, a criminal case has been registered as against the petitioner and the same is pending before the Additional Mahila Court, Nagercoil in CC No.13 of 2020. By referring the pendency of the criminal case, the first respondent has not re-issued passport to the petitioner.



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3.Mr.H.Velavadhas, learned Standing Counsel who takes notice for the first respondent submits that due to adverse report received from the respondents 2 & 3, they have not re-issued the passport to the petitioner.

4.Mr.P.Kottaichamy, learned Government Advocate who takes notice for the respondents 2 & 3 confirms that a criminal case in CC No.13 of 2020 is pending as against the petitioner on the file of the Additional Mahila Court, Nagercoil for the offences punishable under Sections 294 (b), 498A, 406, 506(ii) IPC and Section 3(1) and 4 of Dowry Prohibition Act, 1961.

5.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.”

6.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.

7.The Ministry of External Affairs, Government of India, has issued a statutory notification in GSR.570(E) dated 25.08.1993



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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.

8. 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.

9. Accordingly, this writ petition is disposed of with the following directions:-



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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.

20.09.2023

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



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B.PUGALENDHI, J.

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Order made in
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