



W.P(MD)No.23058 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.23058 of 2023

T.Prakash

... Petitioner

Vs

**1.The Regional Passport Officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai,
Madurai District.**

**2.The Inspector of Police,
Shenkottai Police Station,
Tirunelveli District.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the first respondent to issue passport to the petitioner based on his application in File No.MD2065429983923 dated 02.06.2023.

**For Petitioner
For R1**

**:Mr.J.Senthil Kumaraiah
:Mr.A.Srinivasan**

Central Government Standing Counsel

For R2

**: Mr.P.Kottaichamy
Government Advocate**



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ORDER

The petitioner's application for grant of passport was not considered by the Passport Authority, on the ground that a criminal proceeding is pending as against this petitioner before the Criminal Court.

2. The petitioner has applied for issuance of passport on 02.06.2023, and on the report of the police, the first respondent has called upon the petitioner to offer his explanation with regard to the criminal case which has been noted in the police verification report.

3. The learned Standing Counsel appearing for the first respondent submitted that the police has informed that the petitioner has involved in the criminal case, however, the same has not been mentioned in the application, therefore, this petitioner was called upon to offer his explanation with regard to the criminal case.



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4. The learned Government Advocate (Crl.side) appearing for the second respondent submitted that the petitioner has involved in the criminal case in Cr.No.254 of 2012 on the file of the Inspector of Police, Shenkottai Police Station for the offences under Sections 294(b), 323, 506(2) IPC and the investigation has also been completed and the charge sheet has been filed in C.C.No.465 of 2013 before the Judicial Magistrate, Shenkottai.

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:-

“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.”



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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 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 passport by referring the pendency of any criminal case before the Court.



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9. 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 passport.

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 issue passport for a temporary period depending upon the requirement. No costs.

NCC : Yes / No.
Index : Yes / No.
Internet: Yes
am

21.09.2023



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- To
- 1.The Regional Passport Officer,
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B.PUGALENDHI, J.

am

Order made in
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