



W.P(MD)No.23066 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.23066 of 2023

Siva Kumar .S

... Petitioner

Vs

1.The Regional Passport Officer,
O/o.The Regional Passport Office,
Bharathi Ula Road,
Race Course Road,
Madurai - 625 002.

2.The Superintendent of Police,
Anti Land Grabbing Cell,
Cuddalore District,
Cuddalore.

3.The Inspector of Police,
Anti Land Grabbing Cell,
Cuddalore District,
Cuddalore.

4.The Inspector of Police,
Thiruppapuliur Police Station,
Cuddalore.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing



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the 1st respondent to issue a Passport to the petitioner based on his application for issuance of Indian Passport dated 28.07.2023 in file number MD1065622671923 on the file of the 1st Respondent.

For Petitioner : Mr.M.Chellapandian
For R1 : Mr.S.Ponsenthil Kumaran
Standing Counsel
For R2 to R4 : Mr.P.Kottaichamy
Government Advocate

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.Mr.S.PonsenthilKumaran, learned Central Government Standing Counsel, who takes notice for the first respondent submits that based on the police verification report, they have called for an explanation from this petitioner and issued a show cause notice on 02.08.2023. The petitioner has submitted his explanation that a case in Crime No.524 of 2017 on the file of the Thirupapuliur Police Station, Cuddalore for the offences punishable under Sections



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143,188,341,285 IPC and Section 7(1) (a) of Criminal Law Amendment Act, 2005 and another case in Crime No.14 of 2014 on the file of the Anti Land Grabbing Cell, Cuddalore are pending as against him. The case in Crime No.14 of 2014 has been charge sheeted and the same was taken on file by the Judicial Magistrate Court No.III, Cuddalore in CC No.166 of 2023. In view of the same, the petitioner's application has not been processed.

3.Mr.P.Kottaichamy, learned Government Advocate, who takes notice for the respondents 2 to 4 submits that the petitioner is involved in two criminal cases. A case in Crime No.524 of 2017 on the file of the Thiruppapuliyur Police Station, Cuddalore for the offences punishable under Sections 143,188,341,285 IPC and Section 7(1) (a) of Criminal Law Amendment Act, 2005 is under investigation. Final report has been filed for the case in Crime No.14 of 2014 before the Judicial Magistrate Court No.III, Cuddalore in CC No.166 of 2023 and the next date of hearing is 19.10.2023.



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

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

- i. The petitioner shall file an affidavit of undertaking



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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.

25.09.2023

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



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To

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B.PUGALENDHI, J.

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