



W.P.(MD)No.23330 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.23330 of 2023

and

W.M.P.(MD)Nos.19516 and 19517 of 2023

Yasin Nagoor

... Petitioner

versus

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

2. The Inspector of Police,
Tirunelveli City Police Station,
Tirunelveli City.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned Show Cause Notice in letter Ref.No.SCN/315588313/23 dated 23.08.2023 on the file of the respondent No.1 and quash the same as illegal.



W.P.(MD)No.23330 of 2023

For Petitioner : Mr.R.Karunanidhi
For R1 : Mr.A.P.Rajasimhan
Central Government Standing Counsel
For R2 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)

ORDER

The petitioner was issued with a passport in the year 2000 and it has been periodically renewed and the same is valid upto 2031. While so, the first respondent has issued a show cause notice dated 23.08.2023 calling upon him to provide a suitable explanation with regard to a criminal case which is pending against him in C.C.No.764 of 2020 before the learned Judicial Magistrate No.I, Tirunelveli and surrender the passport within a period of 30 days. As against the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submits that the petitioner has regularly appeared before the trial Court and he is not evading the criminal proceedings. He further submits that the Government of India has issued a Notification with certain guidelines



W.P.(MD)No.23330 of 2023

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.

3. The learned counsel appearing for the first respondent submits that this show cause notice has been issued in view of the provisions under Section 10(3)(e) of the Passport Act.

4. This Court considered the rival submissions and perused the materials available on record.

5. The petitioner was issued with a passport in the year 2000 and the same has been periodically renewed and it is valid upto 2031. While so, the first respondent has issued a show cause notice dated 23.08.2023 calling upon him to provide a suitable explanation with



W.P.(MD)No.23330 of 2023

regard to a criminal case pending against him and surrender the passport within a period of 30 days.

6. The Ministry of External Affairs, Government of India, has issued a statutory notification in GSR.570(E) dated 25.08.1993 regarding issuance of passports to applicants who have criminal proceedings pending against them. The said Notification is extracted as under:

“GSR 570(E) – In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No.GSR 298(E) dated the 14th April 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f)



of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

(a) the passport to be issued to every such citizen shall be issued-

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year;

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not



W.P.(MD)No.23330 of 2023

cancelled or modified;

(c) any passport issued in terms of (a)(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.”

7. In view of the said notification, 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.

ii) The petitioner, thereafter, shall file an affidavit under GSR. 570(E) along with the No Objection Certificate obtained from the



W.P.(MD)No.23330 of 2023

concerned Court before the Passport Authority. On filing of such No
Objection Certificate, the Passport Authority shall not impound the
passport of the petitioner. No costs. Consequently, connected
miscellaneous petitions are closed.

25.09.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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W.P.(MD)No.23330 of 2023

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W.P.(MD)No.23330 of 2023

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