



WP (MD) No.23605 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Yousuf Hussain

... Petitioner

Vs

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

2.The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli.

3.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to call for the records pertaining to the impugned order in letter Ref.No.SCN/306256343/17, dated 08.11.2017, quash the same as illegal and consequently directing the respondent No.1 to issue passport to the petitioner based on the petitioner's application in MD2070188200117 dated 24.04.2017.



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For petitioner : Mr.C.M.Arumugam

for Mr.S.M.A.Jinnah

For Respondent : Mr.S.Jeyasingh,

No.1 Central Govt Standing Counsel

For Respondent : Mr.B.Thanga Aravind,

Nos.2 and 3 Government Advocate (Crl Side)

ORDER

This writ petition was filed in the year 2017 as against the communication of the Regional Passport Officer dated 08.11.2017 calling upon the petitioner to offer his explanation as to the police verification report for the petitioner.

2.The petitioner has applied for passport on 24.04.2017. Based on the application, the respondent passport authority called for report from the police. Based on the report of the police that the petitioner has involved in criminal case, the petitioner was directed to appear for enquiry before the passport authority. Challenging the same, the petitioner has filed this writ petition on the ground that the petitioner is not having any adverse remarks as on that date, his involvement in the criminal case ended in conviction and he had also undergone the punishment imposed on him in the year 2008 itself. When there is no case pending as against the petitioner, it is not proper on the part of the respondents to conduct enquiry



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based on the report of the Police in respect of the criminal case which attained the finality a very long ago. According to the learned Counsel for the petitioner, the petitioner has undergone the seven years imprisonment and it was over in the year 2008 itself.

3.The learned Counsel for the 1st respondent submits that the petitioner has applied for passport under Tatkal scheme in the year 2008 and the petitioner was issued with a passport. However, he has obtained the passport by suppressing his involvement in the criminal case in Crime No.158 of 1998 on the file of the Coimbatore Bazaar Police Station for the offence under Sections 147, 148, 341, 307 and 302 IPC and Section 3, 4 and 5 of the Explosive Substances Act and the petitioner was convicted and imposed with seven years rigorous imprisonment. Since the passport was issued under Tatkal scheme, they have issued notice to the petitioner calling upon his explanation on 03.01.2010, which was followed by two reminders dated 21.09.2010 and 14.10.2010. However, the petitioner has not responded to any of the notices and therefore, the petitioner's passport was impounded in view of Sections 10(3)(b) and 12(1)(b) of the Indian Passport Act, 1967 by order dated 23.11.2011. Thereafter, this petitioner has applied for re-issuance of passport on 24.04.2017. For this application a report was sought



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and adverse report has been received from the Commissioner of Police, Tirunelveli as against this petitioner and therefore, the petitioner was directed to offer his explanation for the adverse report by the order impugned in this writ petition.

4.The learned Counsel for the 3rd respondent submits that this petitioner is an Al-Uma activist, he was involved in a series of bomb blast incidents, which took place in the year 1998. Initially 48 cases were registered as against this petitioner and all the cases were clubbed together and tried in SC.No.2 of 2000 on the file of the Sessions Court for Exclusive Trial of Bomb Blast Cases, Coimbatore and the petitioner was found guilty for the offence under Sections 147, 148, 341, 307 and 302 IPC and Sections 3,4 and 5 of the Explosive Substances Act and he was convicted and 7 years rigorous punishment was imposed.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The order impugned in this writ petition is only a show cause notice calling upon this petitioner to offer his explanation with regard to the police verification report received from the Commissioner of Police, Tirunelveli.



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The show cause notice was issued in the year 2017, however, the petitioner failed to offer his explanation. The petitioner instead of offering his explanation has filed this writ petition in the year 2017. Considering the passage of time and also considering the subsequent developments, this writ petition is disposed of with a direction to the petitioner to submit a fresh application to the passport issuing authority, who shall consider the same in accordance with law.

7.This writ petition is disposed of in the above terms. No costs.

14.12.2023

dsk

To

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B.PUGALENDHI, J.

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