

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 27831 OF 2023

Between:

Mallesh Dayyala, S/o Malliah Dayyala, Aged 35 years, Occ: Business, R/o. H-
No-13-68/1, Ramaraopalli village, Raikal Mandal, Jagityal District - 505460.
Telangana State.

...PETITIONER

AND

1. The Regional Passport Office, Hyderabad, D.No. 82215 to 19, Kummariguda,
Secunderabad - 500003

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass order or orders more particularly writ of Mandamus declaring the action of Respondent in passing the impugned order dated 31. 05. 2023 in refusing to provide passport services to the Petitioner as illegal, arbitrary and contrary to the principles of natural justice and consequently direct the Respondent to renew the Petitioners passport No. K2551858.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent to renew the Petitioners passport No. K2551858 as early as possible pending disposal of the above writ petition.

**Counsel for the Petitioner: SRI BADDAM ARAVIND REDDY
Counsel for the Respondent: SRI GADI PRAVEEN KUMAR, Dy. SOLICITOR
GENERAL OF INDIA**

The Court made the following: ORDER

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.27831 OF 2023

ORDER:

Heard Sri B.Aravind Reddy, learned counsel for the petitioner and Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India appearing for respondent.

PERUSED THE RECORD.

2. The petitioner herein is holder of passport bearing No.K2551858 and it is valid upto 26.01.2022. He has submitted online application bearing No.HY7075092342723 dated 26.04.2023 with respondent, with a request to renew the said passport. The same was not considered by the respondent on the ground that the petitioner is an accused in criminal case. The respondent has also sought clarifications from the petitioner. However, petitioner has not submitted any explanation, but he met the respondent personally. Even then, respondent is not considering the request made by the petitioner seeking renewal of the passport. Therefore, the present Writ Petition.

3. Petitioner herein is an accused in **C.C.No.1426 of 2022** for the offences punishable under Sections 448, 427, of IPC and it is pending for final disposal. Petitioner is not even convicted. Respondent cannot refuse the renewal of passport of

the petitioner on the ground of the pendency of the aforesaid criminal case against the petitioner and the said action of the respondent is contrary to the procedure laid down under the Passports Act, 1967 and also the principle laid down by the Hon'ble Supreme Court in **Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation**¹.

4. It is also relevant to note that the Apex Court in **Vangala Kasturi Rangacharyulu** (supra) had an occasion to examine the provisions of the Passports Act, 1967, pendency of criminal cases and held that refusal of a passport can be only in case where an applicant is convicted during the period of five (05) years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years. Section 6.2(f) relates to a situation where the applicant is facing trial in a criminal Court. The petitioner therein was convicted in a case for the offences under Sections 420 IPC and also Section 13(2) read with Section 13(1) of the Prevention of Corruption Act, 1988, against which, an appeal was filed and the same was dismissed. The sentence was reduced to a period of one (01) year. The petitioner therein had approached the Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Apex

¹. 2020 Cr.L.J. (SC) 572

Court held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Apex Court directed the Passport Authority to renew the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal appeal in S.C.

5. In view of the above, mere pendency of criminal case is no ground to decline renewal of passport. Further, the petitioner is ready to co-operate with the trial Court in concluding trial. He is standing on better footing than the petitioner in **Vangala Kasturi Rangacharyulu** (supra). Therefore, the petitioner herein sought to issue necessary directions to respondent for consideration of the application for issue of fresh passport. Thus, on the ground of pendency of the above criminal case, passport cannot be denied to the petitioner.

6. In view of the aforesaid discussion, this writ petition is disposed of directing respondent to consider the application bearing No.HY7075092342723 dated 26.04.2023 submitted by the petitioner seeking to renew the passport without reference to the pendency of the proceedings in **C.C.No.1426 of 2022**, subject to the following conditions:

- i) The petitioner herein shall submit an undertaking along with an affidavit in **C.C.No.1426 of 2022**,

pending on the file of I Addl. Junior Civil Judge-cum-Judicial First Class Magistrate, Jagityal, stating that he will not leave India during pendency of the said C.C. without permission of the Court and that he will co-operate with trial Court in concluding the proceedings in the said C.C.;

- ii) On filing such an undertaking as well as affidavit, the trial Court shall issue a certified copy of the same within two (02) weeks therefrom;
- iii) The petitioner herein shall submit certified copy of aforesaid undertaking before the Respondent-Passport Officer for renewal of his passport;
- iv) The Respondent-Passport Officer shall consider the said application in the light of the observations made by this Court herein as well as the contents of the undertaking given by the petitioner for renewal of his passport in accordance with law, within two (03) weeks from the date of said application;
- v) On renewal of the Passport, the petitioner herein shall deposit the original renewed Passport before the trial Court in **C.C.No.1426 of 2022**; and

vi) However, liberty is granted to the petitioner herein to file an application before the trial Court seeking permission to travel aboard and it is for the trial Court to consider the same in accordance with law.

However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the writ petition shall also stand closed.

SD/-K.AMMAJI
ASSISTANT REGISTRAR

NOTE: That the CC. No read as "CC.No.516 of 2022" in the order dated 06/10/2023 in WP.No.27831 of 2023 is corrected and substituted as "CC.No.1426 of 2022 as per the orders of the Hon'ble Court dated 18/11/2023 in IA.No.2 of 2023

This amended order shall substitute the earlier order which has already been dispatched on dt:18/10/2023.

SD/-K.AMMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Regional Passport Office, Hyderabad D.No 82215 to 19, Kummariguda, Secunderabad - 500003
2. One CC to SRI BADDAM ARAVIND REDDY, Advocate [OPUC]
3. One CC to SRI GADI PRAVEEN KUMAR, Dy. SOLICITOR GENERAL OF INDIA [OPUC]
4. Two CD Copies

PSK
LS



HIGH COURT

**DATED:06/10/2023
18/11/2023**

**AMENDED ORDER
WP.No.27831 of 2023**



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS.**

(6)
MA
27/11/23